

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3 BEFORE THE HONORABLE ROBERT C. JONES, CHIEF DISTRICT JUDGE  
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4 UNITED STATES OF AMERICA, :  
5 Plaintiff, : No. 2:13-CR-19-RCJ-GWF  
6 -vs- : No. 2:13-CR-54-RCJ-CWH  
7 JOSHUA CROFT, : December 11, 2013  
8 Defendant. : Las Vegas, Nevada  
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TRANSCRIPT OF CHANGE OF PLEA

APPEARANCES:

14 FOR THE PLAINTIFF: CRISTINA D. SILVA and  
15 PHILLIP N. SMITH, JR.  
16 Assistant United States Attorneys  
17 Las Vegas, Nevada

18 FOR THE DEFENDANT: GABRIEL L. GRASSO  
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1 LAS VEGAS, NEVADA, WEDNESDAY, DECEMBER 11, 2013, 9:12 A.M.

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4 THE COURT: Good morning. This is in United  
5 States versus Joshua Croft. Appearances, please.

6 MR. SMITH: Good morning, your Honor. Phillip  
7 Smith appearing for Cristina Silva on behalf of the United  
8 States.

9 MR. GRASSO: Good morning, your Honor. Gabriel  
10 Grasso on behalf of Mr. Croft. He's present in custody.

11 THE COURT: Thank you.

12 This was for the purpose of change of plea. Are you  
13 still going forward with your change of plea, Mr. Croft?

14 THE DEFENDANT: The plea -- the plea that we  
15 agreed on -- we've had negotiations. I talked to this coward  
16 two weeks ago. We agreed, him, the DA and me, we agreed on a  
17 specific deal.

18 This -- this dude right here was supposed to come  
19 down here and show me --

20 THE COURT: Speak with respect, sir.

21 THE DEFENDANT: This fucking faggot was supposed  
22 to come down here --

23 THE COURT: Sir, you're in contempt. Speak with  
24 respect or stop speaking.

25 THE DEFENDANT: Your Honor, the thing is this

1 here -- I'm not stupid, I know what's going on. I know  
2 that -- this has been a problem like this since the  
3 beginning --

4 THE COURT: Sir, you call him by his name.

5 THE DEFENDANT: It's been a problem since the  
6 beginning, your Honor. I meant no disrespect to you, but I  
7 can't say the same thing for the attorney.

8 Me and him have been having issues -- this is my  
9 life I'm fighting for. I don't have no problem signing the  
10 deal, neither do I have a problem going to trial, but I'm not  
11 going to do none of that with him.

12 You don't tell me that we all agree on a deal, but  
13 when you come see me it's a different deal. That's not what  
14 we agreed on. We agreed -- last time I talked to you --

15 THE COURT: Sir, my question was, the agreement  
16 that was handed to you, are you going to sign it or not?

17 THE DEFENDANT: It's not the same -- it's not  
18 the same agreement, your Honor.

19 THE COURT: Okay. So the one that was handed to  
20 you this last week, two weeks ago, is not the same  
21 agreement --

22 THE DEFENDANT: No.

23 THE COURT: -- and you're not willing to sign  
24 it.

25 THE DEFENDANT: No, no, it's not the same one.

1 We changed it.

2 THE COURT: All right.

3 THE DEFENDANT: We all changed our deal.

4 THE COURT: Thank you, sir.

5 THE DEFENDANT: Last time I spoke to you the  
6 deal was different. You said for us to renegotiate our deal.  
7 We did that. It's not the same deal that was offered to me  
8 recently.

9 THE COURT: Thank you, sir.

10 THE DEFENDANT: Two weeks ago it was a different  
11 deal. This deal is something different.

12 THE COURT: Thank you. That's all. Please be  
13 seated.

14 Is there any other deal offer? I don't want to get  
15 involved in it, of course, but is there any deal on the table?

16 MR. GRASSO: Your Honor, I spoke to Cristina  
17 Silva yesterday afternoon, and according to her indications to  
18 me, there is no longer a deal on the table.

19 THE COURT: Okay. All right. Let's see, the  
20 must be tried date for this case was what?

21 THE DEFENDANT: Your Honor, I have a question.

22 THE COURT: Hold on just a minute.

23 THE CLERK: December 11th, 2013, today.

24 THE COURT: All right. And I had continued  
25 this -- let's see. Trial was scheduled for this week, right?

1 MS. SMITH: December --

2 THE CLERK: Correct, tomorrow.

3 THE COURT: Tomorrow. I had continued that and  
4 taken it off calendar because it was represented to me that  
5 the defendant was willing to enter into a change of plea. So  
6 it is off calendar at this point, and I have scheduled other  
7 trial matters, including hearings and meetings, this week to  
8 begin. So I cannot hold the trial this week.

9 So as far as I'm concerned, the continuance that I'm  
10 going to have to give is at the behest, or at the cause of the  
11 defendant personally who is now no longer going forward with a  
12 plea deal. Consequently, I will -- you do have to go to  
13 trial, Mr. Croft.

14 THE DEFENDANT: Can I --

15 THE COURT: Just a minute.

16 THE DEFENDANT: I got a question.

17 THE COURT: Just a minute.

18 You do have to go forward with trial, and I'll ask  
19 Madam Clerk to schedule us the nearest trial date, and, again,  
20 the cause of it is necessitated by Mr. Croft's refusal to  
21 enter into a plea.

22 Just a minute.

23 Trial dates, please.

24 THE CLERK: Your Honor, trial date is  
25 January 13, 2014, at 9:00 a.m.

1                   THE COURT: At 9:00 a.m. And I understand  
2 that's second on a trial stack with another case.

3                   THE CLERK: That's correct.

4                   THE COURT: And is that other case a criminal  
5 case?

6                   THE CLERK: That is correct, your Honor.

7                   THE COURT: So this can't bump that one. So you  
8 will be on the second stack for that case at that time.

9                   If per chance that criminal case goes forward, then  
10 what is our next available time that we will be bumping -- of  
11 course, I'm not bumping you at this point, I'm just saying you  
12 are set 9:00 a.m. January 13, but you will be trailed to what  
13 week if that first case goes forward?

14                  THE CLERK: The following week we have a civil  
15 matter jury trial set so we're looking at the beginning of  
16 February.

17                  THE COURT: Which would be?

18                  THE CLERK: February 3rd, 2014, at 9:00 a.m.

19                  THE COURT: Okay. Very good.

20                  All right. Now your question, sir.

21                  THE DEFENDANT: See, the thing is, this is what  
22 I'm saying. Today we came here to sign a deal. This is a  
23 deal that I have not seen yet. I never seen it, I was not  
24 trying to sign a deal, I said I have not seen this deal. The  
25 deal that we discussed, this is not the deal that I've seen.

1 I didn't come here to go to trial, I came here to  
2 sign my plea. I have not gotten this deal yet.

3 This is what I'm saying, your Honor. I'm not  
4 pressing the issue on trial, I'm pressing the issue on the  
5 plea that they offered me. I haven't seen it yet.

6 THE COURT: Thank you, sir.

7 THE DEFENDANT: This is what I said two weeks  
8 ago when we came to court.

9 THE COURT: Do you have anything else? How much  
10 more are you going to talk, sir?

11 THE DEFENDANT: Well, I just want to --

12 THE COURT: The bottom line is I took this off  
13 based upon the representation --

14 THE DEFENDANT: Going to sign --

15 THE COURT: -- that you were agreeing to a deal.

16 THE DEFENDANT: Exactly.

17 THE COURT: I ordered counsel to fax the deal to  
18 you.

19 THE DEFENDANT: I just seen him yesterday.  
20 Today he said I'm supposed to sign my deal.

21 THE COURT: Counsel, did you fax the deal to  
22 him?

23 MR. GRASSO: We didn't fax it, Judge, we mailed  
24 it to him.

25 THE DEFENDANT: I haven't --

1 THE COURT: When did you mail it to him?

2 MR. GRASSO: Once Cristina Silva sent me the  
3 revised -- I found some typos and things like that in the  
4 deal, and it must have been sometime last week. It was after  
5 we had -- this all happened during Thanksgiving week, our  
6 conversation on the phone where he accepted the deal.

7 When I got back into town after Thanksgiving, it  
8 was --

9 THE COURT: Counsel, I told you that you were to  
10 go to the prison and get his signature. In lieu of that --  
11 that was -- don't raise your hand, sir. This is your fault  
12 primarily. It's your fault primarily.

13 Yeah, well, raise your hand.

14 THE DEFENDANT: Can I explain --

15 THE COURT: You're going to trial, sir. That's  
16 it. There's no more deal on the table. You're going to  
17 trial. The only thing I'm dealing with now is whether counsel  
18 followed my order.

19 This was Thanksgiving, it was Wednesday before  
20 Thanksgiving. You told me that you were already out of town.

21 MR. GRASSO: Right.

22 THE COURT: I told you you were to go to the  
23 prison --

24 MR. GRASSO: I did.

25 THE COURT: -- to get his signature.



1                   You did. On Wednesday?

2                   MR. GRASSO: No, no, not on Wednesday.

3                   THE COURT: You told me that in lieu of going  
4 Wednesday, you would fax the agreement to him on Wednesday,  
5 and you would have your associate there at the prison to have  
6 him agree to it, at least orally if not in writing. Did that  
7 happen, sir?

8                   MR. GRASSO: Your Honor, this is how it  
9 happened. This is what happened.

10                  This is -- we're talking Thanksgiving week. I think  
11 we spoke on a Tuesday. The Court called me on Tuesday, or I  
12 called the Court. That was the Tuesday of Thanksgiving week;  
13 is that correct? I don't remember.

14                  THE COURT: Probably.

15                  MR. GRASSO: But I spoke to the Court, I spoke  
16 to him, this whole thing was done, and when I was speaking to  
17 him, the deal had been faxed over to him.

18                  So the fax did occur that day. He had a deal in his  
19 hand. He wasn't just talking -- he had the deal in his hand  
20 because we were going back and forth --

21                  THE COURT: Was it the deal you thought orally  
22 he had agreed to?

23                  MR. GRASSO: No -- yes, and he had the deal --  
24 he's had numerous copies of the deal because this deal has  
25 changed a lot, but he had the deal in his hand.

1           Then what happened was -- it wasn't a question of --  
2   if the Court recalls, I said I would have to send my  
3   associate, and the Court said, well, as long as we have an  
4   oral representation --

5           THE COURT: I said as long as we have an oral  
6   representation with the document hot in his hand --

7           MR. GRASSO: Right.

8           THE COURT: -- that he was going to enter into  
9   it, I would allow us to continue.

10          MR. GRASSO: And we had -- we had that -- that's  
11   what happened. He gave me -- we came back and forth, back and  
12   forth, and I finally called the Court and talked to your JA.  
13   This is all happening in the week before Thanksgiving, the  
14   week of Thanksgiving.

15          THE COURT: I told you by 5:00 p.m. that day.

16          MR. GRASSO: That happened; that happened.

17          THE COURT: And you called my JA and said he's  
18   agreed.

19          MR. GRASSO: He's agreed.

20          And then -- and then I went to see him --

21          THE DEFENDANT: Yesterday.

22          MR. GRASSO: No, no, no, no, no.

23          After Thanksgiving I went to see him at the jail to  
24   go over some discovery at the prison. That was the week after  
25   Thanksgiving.

1 THE DEFENDANT: Last week.

2 MR. GRASSO: Yeah, last week.

3 THE COURT: Quiet, sir.

4 MR. GRASSO: I went to see -- you know, it's  
5 hard for me to get out to Pahrump, Judge. I get out there a  
6 regular time, but it's like I have to basically wipe out  
7 three-quarters of a day to get out to Pahrump.

8 And so I went to see him last week to talk about  
9 everything and to talk about the discovery. If you recall,  
10 the Court -- to talk about everything.

11 And then I went to see him again yesterday to make  
12 sure everything was hunky-dory.

13 THE DEFENDANT: Exactly.

14 THE COURT: Sir, be quiet.

15 MR. GRASSO: So I've been out there twice.  
16 Since the Court has ordered me out there, I've been out there  
17 twice.

18 And yesterday I went out to see him. I don't go out  
19 to see any of my other clients, okay. I just went out to see  
20 him, and spent an hour and a half with him in the room going  
21 over this deal.

22 THE COURT: I don't want to get into the  
23 contents of the plea agreement. I'm prohibited from doing  
24 that. So I'm going to ask you just a very simple question.  
25 Did you get his agreement or not --

1 MR. GRASSO: Yes.

2 THE COURT: -- through your associate, or you --  
3 let me finish my question.

4 THE DEFENDANT: I didn't say anything.

5 THE COURT: Did you get his agreement, or not,  
6 through your associate, or through yourself, to the faxed  
7 agreement on the day of our telephone conversation?

8 MR. GRASSO: Yes. Yes, your Honor.

9 Here's what happened. My associate -- I mentioned  
10 to him during the phone call --

11 THE COURT: I just want a yes or no, sir.

12 MR. GRASSO: Yes.

13 THE COURT: I don't want to know here's what  
14 happened.

15 MR. GRASSO: Yes.

16 THE COURT: Did you get his consent, yes or no?

17 MR. GRASSO: On that Tuesday, yes. It was  
18 Thanksgiving week.

19 THE COURT: It was oral.

20 MR. GRASSO: Oral consent.

21 THE COURT: And did it happen after the  
22 agreement at issue had been sent to him?

23 MR. GRASSO: Yes.

24 THE COURT: But now he will not sign it.

25 THE DEFENDANT: Yeah, I wanted to sign, your

1 Honor.

2 MR. GRASSO: What occurred was -- and let me --  
3 would the Court mind if I went over the agreement --

4 THE COURT: No, you can't. You know, under the  
5 rules, I can't look into the agreement.

6 MR. GRASSO: Well, the Court has a copy of it.

7 THE COURT: I'm not going to -- I haven't looked  
8 at it. I don't get that until I put him under oath and I  
9 start asking him questions. I can't look at the content of  
10 the agreement until he's ready to enter into a plea, until  
11 you've told me he's signed it.

12 MR. GRASSO: Here's what occurred. The  
13 agreement that we agreed to on the phone on the Tuesday --

14 THE COURT: He had the agreement in his hand.

15 THE DEFENDANT: No, no, this is not --

16 THE COURT: He had the agreement in his hand,  
17 did he not, counsel?

18 MR. GRASSO: He had the agreement, okay?

19 THE DEFENDANT: Judge --

20 THE COURT: Okay.

21 MR. GRASSO: The agreement that we agreed to on  
22 the phone on Tuesday, and the agreement -- then after  
23 everything was all -- the dust settled, he said on Tuesday,  
24 yes, I will take it.

25 And I called your office before 5:00, and

1 everything -- and your office put off the trial, and  
2 everything was the done according to your instructions.

3 That agreement was -- he's saying it's different  
4 than the agreement I came to him with the second time which  
5 was --

6 THE COURT: I don't even understand what you're  
7 saying. You're using a foreign language as far as I can tell.

8 MR. GRASSO: Here's what's happening --

9 THE COURT: And so is your client.

10 MR. GRASSO: Well, here's what's happening.

11 On Tuesday of Thanksgiving week when I had  
12 conversations with your Honor, when I had conversations  
13 with --

14 THE COURT: So what you're telling me, trying to  
15 interpret your foreign language, is you did fax him the  
16 agreement at issue, but after that the parties agreed to a  
17 different agreement.

18 THE DEFENDANT: Exactly.

19 MR. GRASSO: No, no, that's not true. That's  
20 not correct.

21 What happened was that inside this agreement --  
22 because there is a -- without getting into much detail in the  
23 agreement, there is a section in the agreement which deals  
24 with grouping of charges because there's two cases grouped in  
25 one agreement.

1           The grouping of charges section changed somewhat in  
2           that there was a mis -- this is just the government's  
3           calculation. This does not mean that this -- this is not like  
4           the base offense level and the plus this and plus that --

5           THE COURT: Nor is the agreement a binding  
6           agreement, right? It doesn't bind me.

7           MR. GRASSO: No, it doesn't bind you.

8           And so in that section, from -- because those  
9           grouping calculations are somewhat complex, it had -- when we  
10          were talking during Thanksgiving week, it had one calculation  
11          that the government came up with, and then later on in our  
12          conversation together after Thanksgiving, and our conversation  
13          of trying to get this thing going or just talking --

14          THE COURT: You realized it had to be changed.

15          MR. GRASSO: We realized that it had to be  
16          changed by one point.

17          THE COURT: Was the agreement that was faxed,  
18          was it a binding agreement on the Court?

19          MR. GRASSO: No.

20          THE COURT: Obviously it had bound you.

21          MR. GRASSO: It was.

22          THE COURT: But did it bind the Court?

23          MR. GRASSO: Not at all.

24          THE COURT: So we all understand that what that  
25          agreement was, it did not bind the Court. It's my probation

1 department, neither the government nor you, calculating the  
2 range, correct?

3 MR. GRASSO: Exactly. And I explained that to  
4 him yesterday.

5 THE COURT: So it was faxed to him. You got his  
6 agreement to it --

7 MR. GRASSO: Yes.

8 THE COURT: -- before 5:00 p.m. that day.

9 MR. GRASSO: Yes.

10 THE COURT: And then you and the government  
11 agreed that the writing of it, including the calculation, had  
12 to be changed.

13 THE DEFENDANT: Exactly.

14 THE COURT: Sir, that's not on the record. I  
15 told you to keep your mouth closed. Do you understand what  
16 I'm saying? Do you understand my words, sir?

17 Yeah? You do. You're nodding your head yes. Good.

18 MS. SILVA: Good morning, your Honor. I  
19 certainly apologize for coming in late. I was before Judge  
20 Gordon in another hearing. I do apologize.

21 Mr. Grasso is correct, the correction was as a  
22 result of a math error on my part, I added it incorrectly.  
23 And Mr. Grasso caught the error and said you added this wrong  
24 and asked me to change that one number.

25 So that is the only -- the only thing that changed



1 between the conversation the week before Thanksgiving --

2 THE COURT: Did it increase the calculation?

3 MS. SILVA: For one section, because the  
4 way we --

5 THE COURT: So it increased the calculation.

6 MS. SILVA: By one point.

7 THE COURT: Very good.

8 MS. SILVA: Yes.

9 THE COURT: But you sent him an agreement.

10 MS. SILVA: Yes. And the substance and what he  
11 was pleading to, what we agreed to --

12 THE COURT: So if he agreed to it, you're bound  
13 to it.

14 MS. SILVA: And we could change it back, your  
15 Honor, because ultimately --

16 THE COURT: You bet. You will change it back  
17 because you're bound to it.

18 MS. SILVA: Ultimately -- well, it hasn't been  
19 signed yet, but that being said, that's no problem because  
20 you're right, Probation is going to come back with a  
21 calculation anyway.

22 THE COURT: That's correct. So let's have it  
23 revised to exactly what was faxed to him.

24 MS. SILVA: No problem, your Honor.

25 THE COURT: Do you understand what I'm

1 suggesting now?

2 Now, you can speak, sir. Do you understand what I'm  
3 suggesting?

4 The agreement that will be given to you for  
5 signature is the exact agreement that you received by fax at  
6 the prison on that Tuesday or Wednesday before Thanksgiving.  
7 Do you understand?

8 THE DEFENDANT: I haven't received a copy, but I  
9 understand. I still want to sign it, your Honor, even though  
10 I haven't received a copy. I understand.

11 MR. GRASSO: He threw the copy in my face  
12 yesterday, Judge, that's why he hasn't received a copy, I  
13 mean, the second copy.

14 THE COURT: Are you talking about the mailed  
15 one --

16 THE DEFENDANT: The one --

17 THE COURT: -- with the change?

18 MR. GRASSO: No, no, I'm talking about the one I  
19 sent him. I brought him -- I brought copies of it yesterday  
20 when I went to see him just to make sure we all had the same  
21 agreement, and he didn't want to accept it.

22 The other copy, the copy the Court is talking about  
23 was faxed --

24 THE COURT: But you affirm to me --

25 MR. GRASSO: -- was faxed to him.

1 THE COURT: -- as an officer of the court, that  
2 it was faxed to him that very day.

3 MR. GRASSO: That was the first thing that  
4 happened, because, if you recall, your Honor, I was out  
5 town --

6 THE COURT: I didn't ask you for all the  
7 explanation.

8 MR. GRASSO: -- I couldn't go there.

9 THE COURT: I asked was it in fact faxed to him.

10 MR. GRASSO: Yes, it was faxed to him.

11 THE COURT: Sir, counsel tells me as an officer  
12 of the court it was faxed to you.

13 Was it Tuesday or Wednesday that we were talking?

14 MR. GRASSO: I think it was Tuesday, your Honor.

15 THE COURT: Tuesday. And by five o'clock you  
16 said you had his agreement.

17 Are you telling me now, sir, you didn't get it?

18 THE DEFENDANT: No, no. I did -- I did give him  
19 a verbal agreement, I'm not turning from there. I have not  
20 seen that -- I didn't receive the fax, rather.

21 THE COURT: I don't know how you disclaim it,  
22 sir. He tells me it was faxed to you on that day, and I'm  
23 assuming that he has a faxed document somewhere to prove it.

24 THE DEFENDANT: Your Honor, it's been  
25 complications at the prison. Just like he says he faxed --

1 THE COURT: Sure, there's always complications  
2 at the prison.

3 THE DEFENDANT: Exactly --

4 THE COURT: I believe that like I believe the  
5 sun is going to go down in two hours.

6 THE DEFENDANT: But there's things that he faxed  
7 me that he knows I didn't get, so it's not him -- I'm not  
8 saying it's him, I'm saying it's the prison.

9 THE COURT: No, it isn't, it's you.

10 So are you willing -- do you have that original fax  
11 that was sent to him?

12 MS. SILVA: Your Honor, I have it in e-mail  
13 format so Mr. Grasso can print that out and --

14 THE COURT: Hand it to him now, and I'm going to  
15 give you five minutes, sir, to tell me whether you're going to  
16 sign it or not. You understand?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Otherwise we're going to trial. The  
19 deal is off the table. If you're willing to take what was  
20 faxed to you and sign it, I'm going to order them to leave the  
21 offer on the table. Do you understand?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Hand it to him now.

24 MS. SILVA: Your Honor, I apologize, I have the  
25 revised copy. I will have to run upstairs and print it out,

1 it will take me a few moments.

2 THE COURT: No, you will hand him the revised  
3 copy with further revision back to the original, and then you  
4 may be excused while he has five minutes to decide whether  
5 he's going to sign it as originally faxed to him.

6 MS. SILVA: Yes, your Honor.

7 THE COURT: Also, for the record, we had a jury  
8 summonsed for today, which summons we notified them that they  
9 were not obligated to comply with because it was represented  
10 to me that we had a guilty plea.

11 Remind me in the future, Madam Clerk, we will never  
12 take a trial off calendar unless I have a signed agreement in  
13 my face.

14 THE CLERK: Yes, your Honor.

15 THE COURT: Now, you have five minutes, sir,  
16 unless you know --

17 THE DEFENDANT: I'm waiting for them to give it  
18 to me.

19 THE COURT: -- unless you know you're ready to  
20 sign it already. For the record, it's been handed to him.  
21 Five minutes.

22 (A recess was taken.)

23 THE COURT: All right. Let's see, you've given  
24 him a copy of the plea that was faxed to him, and you've given  
25 me a copy of it as well, correct?

1 THE CLERK: That's the original, your Honor.

2 THE COURT: That's the original.

3 And have you signed it, and are you willing to sign  
4 it, Mr. Croft?

5 THE DEFENDANT: I've signed it already.

6 THE COURT: You have. So you're willing to go  
7 forward on this basis.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. If you'll bring your client  
10 up to the podium, please.

11 Thank you, Mr. Croft. In order to take a valid  
12 plea, I have to ask you questions under oath. If you would  
13 raise your right hand and be sworn, please.

14 (The defendant was sworn.)

15 THE COURT: Thank you, sir. You understand  
16 you're under oath, you must answer truthfully.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: The defendant has been furnished  
19 with a copy of all the charges, counsel?

20 MR. GRASSO: He has, your Honor.

21 THE COURT: Do you waive a reading at this time?

22 MR. GRASSO: We do, your Honor.

23 THE COURT: And do you understand the charges  
24 against you, sir?

25 THE DEFENDANT: Yes, sir.

1                   THE COURT: Okay. And just for the record, I  
2 apologize for asking, but do you fully read, write, and  
3 understand the English language?

4                   THE DEFENDANT: Yes, sir.

5                   THE COURT: And how does he intend to plead,  
6 please?

7                   MR. GRASSO: Guilty, your Honor.

8                   THE COURT: There are how many counts?

9                   MR. GRASSO: There are three counts, one is an  
10 enhancement. There's a fourth, but it's an enhancement, it's  
11 a 924(c).

12                  THE COURT: Okay. So it's a guilty plea to  
13 Counts 1, 2 and 11 in case number 2:13-CR-19, and Count 1 in  
14 case 2:13-CR-54; is that correct?

15                  MR. GRASSO: That's correct, your Honor.

16                  THE COURT: Okay. Now, before accepting the  
17 plea, Mr. Croft, I have to ask you these questions. The main  
18 purpose is to make sure you understand you have a right to a  
19 trial instead of proceeding with a guilty plea.

20                  First a little bit about yourself. How old are you?

21                  THE DEFENDANT: Twenty-four.

22                  THE COURT: And how far did you go in school?

23                  THE DEFENDANT: How far? I graduated, or, you  
24 mean, like what's the last grade that I was --

25                  THE COURT: Yeah.

1 THE DEFENDANT: College, I took college.

2 THE COURT: And did you graduate from college?

3 THE DEFENDANT: No, sir.

4 THE COURT: But you took a year or two?

5 THE DEFENDANT: Uh-huh, I took a year.

6 THE COURT: Okay. In the last 24 hours, have  
7 you taken any drugs, medicine, pills of any kind, or drunk any  
8 alcoholic beverages?

9 THE DEFENDANT: No, sir.

10 THE COURT: No. And have you ever been treated  
11 for any mental illness or addiction to narcotic drugs of any  
12 kind?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And did treatment -- was it for  
15 mental illness?

16 THE DEFENDANT: No, it was for -- I was high  
17 when I did my first case, and they sentenced me to -- once I  
18 got out of prison, I had to take drug classes.

19 THE COURT: Okay. And you're not taking any  
20 present medication --

21 THE DEFENDANT: No, sir.

22 THE COURT: -- to help you with that treatment.

23 THE DEFENDANT: No, sir.

24 THE COURT: Okay. And do you in fact understand  
25 what is happening here today?



1 THE DEFENDANT: I'm pleading guilty.

2 THE COURT: Okay. And, counsel, do either of  
3 you have any doubt as to defendant's competence to plead?

4 MS. SILVA: No, your Honor.

5 MR. GRASSO: No, your Honor.

6 THE COURT: Okay. Based upon those  
7 representations and my own observations, I find the defendant  
8 competent to plead.

9 Now, here for purposes of this hearing, sir,  
10 Mr. Grasso represents you, has been appointed to represent  
11 you. Have you had sufficient opportunity to discuss your case  
12 with him and this guilty plea, and are you satisfied to have  
13 him represent you here today?

14 THE DEFENDANT: Yes.

15 THE COURT: Under our constitution and laws, you  
16 understand that you are entitled to a jury trial instead of a  
17 guilty plea. Do you understand that? Yes?

18 THE DEFENDANT: Yes.

19 THE COURT: And at such a trial all jurors, 12  
20 of them, would have to find you guilty unanimously before you  
21 could be convicted. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: And the government at such a trial  
24 has to carry the burden of proof. In other words, there's a  
25 presumption of innocence. You don't have to prove your

1 innocence, the government has to carry their burden, beyond a  
2 reasonable doubt and by competent evidence, that you are in  
3 fact guilty. Do you understand that burden?

4 THE DEFENDANT: Yes.

5 THE COURT: And you understand that witnesses  
6 for the government, in fact, have to come here in Court on  
7 this stand and in your presence to testify. Your attorney  
8 could cross-examine them; you understand that.

9 THE DEFENDANT: Yes.

10 THE COURT: And also present witnesses and  
11 evidence on your behalf; you understand that.

12 THE DEFENDANT: Yes.

13 THE COURT: You also understand that you have a  
14 right to remain silent. That means you can testify if you  
15 want to, but you also have the right to simply remain silent  
16 during such a trial; you understand that.

17 THE DEFENDANT: Yes.

18 THE COURT: If I accept your guilty plea today,  
19 do you understand that you will waive these rights that we  
20 have just discussed?

21 THE DEFENDANT: Yes.

22 THE COURT: For example, you will be admitting  
23 that you committed the offenses charged in these particular  
24 counts of the indictment; you understand that.

25 THE DEFENDANT: Yes.

1                   THE COURT: And also you will be waiving your  
2 right to remain silent because in a moment I will ask you what  
3 you did, and you'll be telling me under oath; you understand  
4 that.

5                   THE DEFENDANT: Yes.

6                   THE COURT: Are you willing today to give up  
7 your right to remain silent in order for me to accept your  
8 guilty plea?

9                   THE DEFENDANT: Yes.

10                  THE COURT: You've read a copy of these two  
11 indictments against you, sir?

12                  THE DEFENDANT: Are you talking about the  
13 original indictments?

14                  THE COURT: Yeah.

15                  THE DEFENDANT: Yes, sir.

16                  THE COURT: And you've discussed these with your  
17 attorney.

18                  THE DEFENDANT: Yes.

19                  THE COURT: He's explained them to you.

20                  THE DEFENDANT: Yes.

21                  THE COURT: I'm also required to explain to you  
22 especially the elements of each of these charges upon which,  
23 if you chose to go to trial, a jury would have to find you  
24 guilty.

25                   You've been charged in Count 1 of the indictment

1 with a violation of Title 18 U.S. Code section 1951. This  
2 section makes it a crime for anyone to be guilty of conspiracy  
3 to interfere with commerce by robbery.

4 The elements of this offense are twofold. The  
5 government would have to prove both of these by competent  
6 evidence and beyond a reasonable doubt at trial.

7 First, beginning on a date unknown, and continuing  
8 through on or about December 28, 2012, Defendant Joshua Croft,  
9 that's you, conspired with Chilicia Jamerson and others, known  
10 and unknown, to interfere with commerce by robbery as charged  
11 in the indictment.

12 Second, Defendant Croft became a member of the  
13 conspiracy knowing of its object and intending to accomplish  
14 it.

15 In Count 2 of that same indictment, you've been  
16 charged with a violation of Title 18 US Code section 924(c)  
17 (1)(A)(ii)and (iii) and (2). These sections make it a crime  
18 for anyone to brandish a firearm during a crime of violence.  
19 Here's the elements of that offense.

20 First, Defendant Croft committed the crime of  
21 violence charged in the indictment; second, Defendant Croft,  
22 directly or indirectly, carried or used and brandished a  
23 firearm during and in relation to the crime of violence  
24 charged in the indictment.

25 A defendant can be convicted of a violation of

1 Section 924(c) even if the defendant did not personally carry  
2 or use the firearm during a crime of violence if the  
3 defendant, and only if the defendant, knew that another  
4 participant or coconspirator in the crime of violence was  
5 using or carrying a firearm in relation to the crime, or  
6 carrying or use of a firearm by a participant during the  
7 robbery was reasonably foreseeable.

8 Now, you've been charged in Counts 1 and 2 -- 1 and  
9 11 of 13-CR-19 as follows, with violations of Title 18 US Code  
10 1951(a) and 2. These sections make it a crime for anyone to  
11 be guilty of interference with commerce by robbery.

12 There are three elements to this offense.

13 First, Defendant Croft induced the victims to part  
14 with property by the wrongful use of actual or threatened  
15 force, violence, or fear; second, Defendant Croft acted with  
16 intent to obtain the property; and, third, commerce from one  
17 state to another was affected in some way.

18 Finally, in Count 1 of indictment 2:13-54, you were  
19 charged with a violation of Title 18 US Code 1512(b). This  
20 section makes it a crime for anyone to be guilty of tampering  
21 with a witness.

22 There are three elements to this offense. Again,  
23 the government would have to prove all three.

24 First, the defendant knowingly used, or attempted to  
25 use, physical force or the threat of physical force against

1 the victim; second, the defendant acted with intent to  
2 influence, delay, or prevent the testimony of the victim in an  
3 official proceeding, or cause or induce to the victim to  
4 withhold testimony in or from an official proceeding, or cause  
5 or induce the victim to appear or not appear as a witness;  
6 third, the defendant knew, or should have known, that the case  
7 was pending or was likely to be instituted.

8 Those are the charges and the elements of each of  
9 the charges.

10 Do you understand those elements, sir?

11 THE DEFENDANT: Yes.

12 THE COURT: You understand that by pleading  
13 guilty you will be admitting to me that the government could  
14 prove those elements against you at trial. Do you understand  
15 that?

16 THE DEFENDANT: Yes.

17 THE COURT: Are you aware of the maximum  
18 sentences and fines that can be imposed for these counts?

19 THE DEFENDANT: No.

20 THE COURT: For example, are you aware that the  
21 maximum possible penalty under case number 2:13-19, Counts 1  
22 and 11, conspiracy to interfere with commerce by robbery, and  
23 interference of commerce by robbery, is a fine of not more  
24 than 250,000, or a term of imprisonment of 20 years, or both?  
25 Do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: The maximum possible penalty under  
3 Count 2, brandishing a firearm during and in relation to a  
4 crime of violence is a fine of not more than 250,000, or a  
5 term of life imprisonment, or both. Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Mandatorily, counsel, is this a  
8 consecutive sentence?

9 MS. SILVA: Yes, your Honor.

10 THE COURT: So the sentence in that count has to  
11 be imposed consecutively. Do you understand that, sir?

12 THE DEFENDANT: Yes.

13 THE COURT: Defendant is subject to a mandatory  
14 minimum of seven years of imprisonment that must run  
15 consecutively to any other sentence; you understand that.

16 THE DEFENDANT: Yes.

17 THE COURT: And we're talking about the  
18 maximums, not necessarily the ones that will be imposed.

19 The maximum possible penalty under case 2:13-CR-54,  
20 Count 1, is tampering with a witness, and that is a fine of  
21 not more than 250,000, or a term of imprisonment of up to  
22 20 years, or both. Do you understand those maximums, sir?

23 THE DEFENDANT: Yes.

24 THE COURT: And there is a minimum, of course,  
25 that is, a consecutive sentence with regard to brandishing a

1 firearm; you understand that.

2 You also understand that a special assessment fee of  
3 \$100 for each count will be imposed at the time of sentencing.

4 THE DEFENDANT: Yes.

5 THE COURT: A little bit more about our  
6 sentencing system.

7 Do you understand that in every criminal case such  
8 as this where you can be sentenced to more than a year in  
9 prison, that in addition the Court may and usually does impose  
10 a term of supervised release, a part of the sentence to  
11 follow, in this case not to exceed five years; you understand  
12 that.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And that while you're on supervised  
15 release, you must abide by the conditions specified by the  
16 Court. If you violate those, the judge at that time can send  
17 you back for additional prison time. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: And if it is revoked in that  
20 fashion, you can be sentenced to the whole term of supervised  
21 release without credit for any time you've already spent in  
22 that status; you understand that.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And if we combine any term of  
25 imprisonment with any time spent because we revoked supervised



1 release, that total time could exceed the original sentence  
2 that you receive; you understand that.

3 In other words, if we look at the original term  
4 that's imposed by the Court, and if we add to it any time  
5 because your supervised release is revoked, that certainly  
6 would exceed, be higher than, the original term you got; you  
7 understand that.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. And you also understand that  
10 the Court can order you to make restitution to any victim of  
11 this offense.

12 THE DEFENDANT: Yes.

13 THE COURT: And that these offenses are felony  
14 offenses.

15 THE DEFENDANT: Yes.

16 THE COURT: If the Court accepts your plea and  
17 you are adjudged guilty of a felony, that could deprive you of  
18 valuable civil rights such as the right to serve on a jury,  
19 the right to possess any kind of a firearm and the right to  
20 vote; you understand that.

21 THE DEFENDANT: Yes.

22 THE COURT: Has anyone threatened you or forced  
23 you to plead guilty?

24 THE DEFENDANT: No, sir.

25 THE COURT: This is a voluntary plea on your

1 part.

2 THE DEFENDANT: Yes.

3 THE COURT: Nobody has applied pressure from a  
4 codefendant or anybody else for you to plead guilty.

5 THE DEFENDANT: No, sir.

6 THE COURT: You've read the plea agreement in  
7 this case?

8 THE DEFENDANT: Yes.

9 THE COURT: And you've discussed it with your  
10 attorney --

11 THE DEFENDANT: Yes.

12 THE COURT: -- on a number of occasions. You  
13 believe you understand it, sir?

14 THE DEFENDANT: Yes.

15 THE COURT: And you signed it.

16 THE DEFENDANT: Yes.

17 THE COURT: That's your signature.

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. Counsel, have you conveyed  
20 any and all offers of plea or negotiations, written or oral,  
21 to your client?

22 MR. GRASSO: I have, your Honor.

23 THE COURT: And do you acknowledge the receipt  
24 of any and all negotiations and pleas, whether you agreed with  
25 them or not, through your attorney from the government?

1 THE DEFENDANT: Yes.

2 THE COURT: And you're acting today both on your  
3 advice and on your attorney's advice.

4 THE DEFENDANT: Yes.

5 THE COURT: Now, last thing before I ask  
6 Ms. Silva to tell us the substance of the agreement, I just  
7 want you to understand that just like the attorneys, you have  
8 an obligation to tell me about any promise that was made to  
9 you that caused you to plead guilty. That's the only way I  
10 can determine the fairness of the agreement.

11 Do you understand that obligation, sir?

12 THE DEFENDANT: Yes.

13 THE COURT: I'll ask Ms. Silva then to relate  
14 the substance of the agreement.

15 MS. SILVA: Yes, your Honor.

16 Defendant knowingly and voluntarily agrees to plead  
17 guilty to the following charges as set forth in the criminal  
18 indictment for case number 2:13-CR-19 returned by the grand  
19 jury on January 15, 2013:

20 Count 1, conspiracy to interfere with commerce by  
21 robbery in violation of Title 18 United States Code section  
22 1951;

23 Count 2, brandishing a firearm in furtherance of a  
24 crime of violence, a violation of Title 18 United States Code  
25 sections 924(c)(1)(A)(ii) and (iii) and(2);

1           and Count 11, interference with commerce by robbery  
2           in violation of Title 18 United States Code section 1951 and  
3           2.

4           The defendant also knowingly and voluntarily agrees  
5           to plead guilty to the following charge as set forth in the  
6           indictment for case number 2:13-CR-54 returned by the grand  
7           jury on January 5th, 2013:

8           Count 1, tampering with a witness, in violation of  
9           Title 18 United States Code section 1512(b).

10          The defendant agrees to the forfeiture of property  
11          as set forth in this plea agreement and the forfeiture  
12          allegations of the indictment in case number 2:13-CR-19.

13          The United States agrees it will move to dismiss any  
14          remaining counts against the defendant at the time of  
15          sentencing.

16          The plea agreement includes the waiver of trial  
17          rights, elements of the offenses, as well as the facts that  
18          support the guilty plea.

19          The defendant acknowledges that the Court must  
20          consider the United States Sentencing Guidelines in  
21          determining the defendant's sentence, but that the guidelines  
22          are advisory, not mandatory, and the Court has discretion to  
23          impose any reasonable sentence up to the maximum term of  
24          imprisonment determined by statute.

25          The parties have included what we believe will be

1 the offense level calculations, and there is a discussion  
2 regarding a reduction of the offense level for acceptance of  
3 responsibility. The defendant will receive either a two- or  
4 three-level reduction for acceptance of responsibility unless  
5 he forfeits the right to that reduction.

6 The defendant acknowledges the Court may base its  
7 sentence in part on the defendant's criminal record or  
8 criminal history, and that the Court will determine the  
9 defendant's criminal history category under the sentencing  
10 guidelines.

11 The Court may consider any counts dismissed under  
12 this plea agreement and all other relevant conduct, whether  
13 charged or uncharged, in determining the applicable guideline  
14 range and whether to depart from that range.

15 And defendant acknowledges that the U.S. Probation  
16 Office may calculate his guidelines differently and may rely  
17 on additional information it obtains through its  
18 investigation, and that the Court will rely on this additional  
19 information. Reliance on such information will not be grounds  
20 for the defendant to withdraw his guilty plea.

21 The plea agreement includes a discussion regarding  
22 factors under Title 18 U.S. Code section 3553, the fact that  
23 parole has been abolished, supervised release, and the \$100  
24 special assessment fee must be paid per count at the time of  
25 sentencing.

1           The United States will seek a sentence within the  
2 applicable sentencing guideline range. The defendant may  
3 argue for a sentence at the low end of the applicable  
4 sentencing guideline range determined by the Court followed by  
5 the 84 months consecutive for his plea in Count 2 in case  
6 number 2:13-CR-19 unless the defendant commits any acts that  
7 could result in the loss of downward adjustment for acceptance  
8 of responsibility. The defendant acknowledges that this Court  
9 does not have to follow that recommendation.

10           The defendant will not request a sentence below the  
11 low end of the guideline range as covered in this plea  
12 agreement and will not seek a downward adjustment pursuant to  
13 Title 18 United States Code section 3553 or guideline  
14 4A1.3(b)(1).

15           The plea agreement includes discussion for  
16 forfeiture as well as the defendant's acknowledgements and  
17 waivers.

18           The defendant is waiving almost all of his appellate  
19 rights except for nonwaivable claims of ineffective assistance  
20 of counsel and any sentence that is above the applicable  
21 guideline range as determined by the Court.

22           The plea agreement also includes removal and  
23 deportation consequences.

24           THE COURT: Thank you. Counsel, do you agree  
25 that's the summary of the agreement?

1 MR. GRASSO: That is, your Honor.

2 THE COURT: And is that your understanding,  
3 Mr. Croft?

4 (Discussion held off the record.)

5 MR. GRASSO: That's my understanding, your  
6 Honor.

7 THE COURT: Is that your understanding,  
8 Mr. Croft?

9 MR. GRASSO: He was hoping that the government  
10 would recite the offense levels.

11 THE COURT: I'm going to recite those.

12 Is this agreement as she's related, the summary of  
13 it, correct?

14 THE DEFENDANT: The charges?

15 THE COURT: Yeah.

16 THE DEFENDANT: Not the sentencing, just  
17 specifically the charges, right?

18 THE COURT: Do you disagree with the sentencing  
19 guideline calculation?

20 THE DEFENDANT: No, no, no, no, no, I said just  
21 what she explained, the nature of the charges?

22 THE COURT: Right.

23 THE DEFENDANT: Okay. I agree.

24 THE COURT: Do you disagree with her summary of  
25 the plea agreement?

1 THE DEFENDANT: I agree. I agree with it.

2 THE COURT: Did anybody make any other promise  
3 to you other than is contained here that caused you to plead  
4 guilty?

5 THE DEFENDANT: It was fixed.

6 THE COURT: Pardon?

7 THE DEFENDANT: I said it was fixed, it's fixed  
8 now so --

9 THE COURT: Okay. Now, you're aware that this  
10 is an agreement that binds you and also binds the government,  
11 but it does not bind the Court. I'm the one that still has to  
12 set the sentence; you understand that.

13 THE DEFENDANT: Yes.

14 THE COURT: So, for example, if my probation  
15 department calculates the guideline differently, I'm at  
16 liberty to follow my probation department. Neither your  
17 attorney nor the government attorney can argue anything except  
18 what's contained here; you understand that.

19 THE DEFENDANT: Yes.

20 THE COURT: So, for example, if my probation  
21 department calculates a higher level, offense level, your  
22 attorney certainly can argue for the offense levels as  
23 calculated here in this agreement; you understand that.

24 THE DEFENDANT: Yes.

25 THE COURT: And the government cannot oppose



1 their argument; you understand that.

2 THE DEFENDANT: Yes.

3 THE COURT: But you also understand that I'm the  
4 one that calculates finally the guideline, and I'm the one who  
5 sets the sentence; you understand that.

6 THE DEFENDANT: Yes.

7 THE COURT: And if the government, after  
8 recommending a sentence, if that sentence is different than  
9 any recommended by the government, you will still be bound by  
10 your guilty plea; you understand that.

11 THE DEFENDANT: Yes.

12 THE COURT: A little bit more about the  
13 sentencing. Under our Reform Act of '84, the U.S. Sentencing  
14 Commission issues guidelines which the Court is obligated to  
15 consult but does not have to hone to, does not have to comply  
16 with completely, but I do have to consult them. They're the  
17 basic place where we start the sentencing process.

18 Have you and your attorney discussed the sentencing  
19 guidelines and how they apply to your case?

20 THE DEFENDANT: Yes.

21 THE COURT: And he's answered all of your  
22 questions.

23 THE DEFENDANT: Yes.

24 THE COURT: You understand that we can't  
25 determine the guideline for about 90 days, it takes my

1 probation department about 60 to 90 days to determine the  
2 guideline.

3           They do an interview of you, they make  
4 recommendations, they discuss your background in the  
5 presentence report, and then finally we hold a sentencing  
6 hearing at which I finally adopt or change the guideline and  
7 make a finding; you understand that.

8           THE DEFENDANT: So 90 days is the max?

9           THE COURT: It's about 90 days.

10           THE DEFENDANT: So there's no way that I can get  
11 sentenced faster than that basically.

12           THE COURT: If my probation department is  
13 faster, I certainly give the liberty to your attorney to move  
14 up the date. I'm available.

15           THE DEFENDANT: Most definitely.

16           THE COURT: Once the guideline has been  
17 determined, again, it's not binding on me, and I can set a  
18 sentence higher or lower than any established in the  
19 guideline; you understand that.

20           THE DEFENDANT: Yes.

21           THE COURT: You would still be bound by your  
22 guilty plea if that happens; you understand that.

23           THE DEFENDANT: No, you confused me.

24           THE COURT: Pardon?

25           THE DEFENDANT: No, you confused me.

1                   THE COURT: If I should go up or down from the  
2 guideline -- they're only advisory, they're not mandatory upon  
3 me. The only thing mandatory on me is minimum and/or maximum  
4 sentences. So if I chose to go higher or lower than the  
5 guideline, you will still be bound by your guilty plea. Do  
6 you understand that?

7                   THE DEFENDANT: Yes.

8                   THE COURT: You have the right, of course, to  
9 appeal any sentence that I impose that's higher than the  
10 guideline as I calculate it, but you will be waiving your  
11 rights to appeal any sentence within the guideline or below  
12 the guideline. Do you understand that?

13                  THE DEFENDANT: Yes.

14                  THE COURT: Finally, there's a last concept we  
15 call relevant conduct.

16                  You understand that if the government is agreeing  
17 not to prosecute other counts, still any other relevant  
18 conduct to the present charges can be discussed in that  
19 presentence report and could affect your sentencing including  
20 your background or prior criminal convictions; you understand  
21 that.

22                  THE DEFENDANT: Yes.

23                  THE COURT: Okay. Now, in the plea packet,  
24 Mr. Grasso, there's a written summary of facts to support a  
25 guilty plea. Have you read that and reviewed it with the

1 defendant?

2 MR. GRASSO: We have, your Honor.

3 THE COURT: Is there any reason he can't  
4 allocute to those facts, namely, that they're not true?

5 MR. GRASSO: No, your Honor. He -- we're  
6 accepting those facts as true.

7 THE COURT: Okay. And, Mr. Croft, you've read  
8 that section on facts to support a guilty plea; is that  
9 correct?

10 THE DEFENDANT: Yes.

11 THE COURT: It's amended by you and the  
12 government in several respects, correct?

13 THE DEFENDANT: Yes.

14 THE COURT: And are you ready to admit that  
15 those are true facts?

16 THE DEFENDANT: Yes.

17 THE COURT: I'm going to read it to you briefly  
18 and then ask you under oath if these are true facts.

19 On December 28, 2012, at approximately 2:30 a.m. --  
20 this pertains to Counts 1, 2 and 11 in 13-19, an armed robbery  
21 occurred at the Circle K located at 700 East Naples,  
22 Las Vegas, Nevada.

23 The investigation revealed that the female suspect,  
24 later identified as codefendant Chilicia Jamerson entered the  
25 store carrying a silver and black automatic handgun. Then a

1 male suspect, later identified as Defendant Joshua Croft,  
2 entered the store, ran behind the counter and approached the  
3 victim clerk. Croft had the clerk open two registers and then  
4 put money from the registers into a white plastic grocery bag  
5 which Croft brought into the store with him.

6 Jamerson and Croft then grabbed cigarettes and gum  
7 from around the cash registers. Croft took the victim clerk's  
8 wallet, and forced him into the back office area onto the  
9 floor. Croft and Jamerson fled the store and drove away in a  
10 black Chrysler 300 sedan.

11 Approximately \$100 was taken from the victim clerk.  
12 The suspects wore gloves, concealed their faces with scarves  
13 and masks. The incident was captured on video surveillance.

14 Officers located the black Chrysler 300 a short time  
15 later, and, following a brief car chase, the occupants, later  
16 identified as codefendants Joshua Croft and Chilicia Jamerson,  
17 were arrested. The victim clerk's wallet and the silver and  
18 black firearm were thrown from the vehicle during the car  
19 chase, however officers were able to recover these items.

20 The vehicle was later towed and was later searched  
21 pursuant to a state search warrant. During the execution of  
22 the search warrant, officers recovered a mask, gloves, white  
23 plastic grocery bag, money and packs of cigarettes and gum  
24 from inside the vehicle.

25 Jamerson was interviewed by detectives. Post

1 Miranda she gave a full taped confession. Jamerson also  
2 admitted to assisting Croft with four additional robberies.  
3 The additional four robberies that Jamerson confessed to  
4 committing with Croft, December 21st, 2012, two robberies,  
5 December 22nd, 2012, one robbery, and December 27th, 2012, one  
6 robbery.

7 In each of the aforementioned robberies, a lone male  
8 suspect ran into convenience stores located in Las Vegas,  
9 Nevada, and pointed a silver semiautomatic handgun at the  
10 victims while demanding money. The suspect in each of these  
11 robberies wore gloves and concealed his face with a black  
12 mask. However, the defendant was identified as the  
13 perpetrator based on *modus operandi*, that he was often seen  
14 getting into a Chrysler 300 automobile after committing the  
15 robberies and the statements made by codefendant Jamerson.

16 With regard to Count 1 in case 2:13-CR-54, on or  
17 about January 16, 2013, Defendant Joshua Croft was at a  
18 hearing in the Eighth Judicial Circuit District Court, State  
19 of Nevada, in Las Vegas, Nevada. By the time this hearing was  
20 held, Croft was aware that Jamerson was providing  
21 incriminating statements to law enforcement agents about  
22 Croft's involvement in additional robberies.

23 Also present in the courtroom with Croft was  
24 Chilicia Jamerson. During the hearing in state court,  
25 numerous charges that were pending against Croft and Jamerson

1 were dismissed as a result of the federal indictment in this  
2 case, 2:13-19.

3 Croft and Jamerson were seated nearby each other in  
4 the courtroom as they waited for their cases to be called.  
5 During the proceedings Jamerson's attorney observed her become  
6 visibly upset and crying. When asked what was wrong, Jamerson  
7 reported to her attorney that Croft had threatened her and her  
8 family with physical violence. Additionally, she told the  
9 attorney that Croft's brother was in the gallery at the  
10 hearing and was taking photographs of her with his cellular  
11 phone. The attorney notified the courtroom marshals of the  
12 exchange between Croft, his family and Jamerson. As a result,  
13 Croft as removed from the courtroom. Croft's family member  
14 was admonished by the marshals for using his cellular phone.

15 Jamerson later provided her attorney with a  
16 threatening letter which was sent to her by Joshua Croft prior  
17 to the hearing while she was in custody of the Clark County  
18 Detention Center. Detectives later met with Jamerson's  
19 attorney and recovered the letter and the envelope it was sent  
20 in. The letter was postmarked from CCDC and was addressed to  
21 Jamerson from Joshua Croft with his inmate identification  
22 number. In the letter, Croft makes threats to have Jamerson  
23 attacked in her cell, and he threatens to expose her  
24 cooperation to other inmates at facilities she may be housed  
25 at in the future. In fact, in a postscript to the letter,

1 Croft specifically "thanks" Jamerson for speaking with  
2 officers and notes because of her they were indicted for  
3 additional charges.

4 Defendant acknowledges that all of the convenience  
5 stores listed in the indictment in case number 2:13-19 were  
6 involved in interstate and, therefore commerce from, one state  
7 to another, and it was affected in some way by the robberies  
8 as charged in the indictment.

9 The defendant admits that the follow property  
10 either, A, constitutes or is derived from proceeds he obtained  
11 directly or indirectly from his criminal violations, or, B,  
12 was used, or intended to be used, in any manner or part, to  
13 commit, or to facilitate the commission of, his criminal  
14 violation: A Taurus semiautomatic .40-caliber handgun with a  
15 silver slide and black bottom bearing serial number SYJ44555  
16 and any and all ammunition.

17 Is all of that a true statement, sir?

18 THE DEFENDANT: Not all of it.

19 THE COURT: What's not true?

20 THE DEFENDANT: The allegations in the  
21 courtroom.

22 THE COURT: The allegation regarding threats?

23 THE DEFENDANT: Yeah, the courtroom. I got  
24 carried out the courtroom and stuff.

25 THE COURT: Then you didn't threaten her.



1           THE DEFENDANT: Never happened. I wrote the  
2 letter, but the courtroom situation never happened.

3           THE COURT: All right. Then we don't have a  
4 plea agreement, at least the plea with respect to the latter  
5 count, so --

6           THE DEFENDANT: Your Honor, I plead -- you're  
7 right, I plead guilty, yes, it's true. I'm sorry.

8           THE COURT: I read it to you exactly as it's  
9 written in the plea agreement, sir. Is the statement as  
10 written and as signed by you true or not true?

11          THE DEFENDANT: It's true.

12          THE COURT: You're telling me that under oath.

13          THE DEFENDANT: It's true.

14          THE COURT: And do you understand that by  
15 admitting to me those facts under oath, you're admitting that  
16 the government could prove their case against you on these  
17 counts that you're pleading guilty to?

18          THE DEFENDANT: Yes.

19          THE COURT: How do you plead, then, guilty or  
20 not guilty, to each of these counts?

21          THE DEFENDANT: Guilty.

22          THE COURT: And are you pleading guilty because  
23 in truth and in fact you are guilty and for no other reason?

24          THE DEFENDANT: Guilty.

25          THE COURT: Since you acknowledge that you are,

1 in fact, guilty as charged in Counts 1, 2 and 11 in case  
2 2:13-19, and Count 1 in case number 2:13-54, and since you  
3 know your right to a trial, you know the maximum possibility  
4 punishments, and since it is a voluntary plea, I conditionally  
5 accept your guilty plea at this time.

6 By conditional, sir, it just means that both you and  
7 I will have a chance to read that presentence report before I  
8 finally accept the guilty plea at the time of sentencing.

9 It is the finding of the Court in the case of the  
10 United States versus Joshua Croft that the defendant is fully  
11 competent and capable of entering an informed plea, and that  
12 his plea of guilty is a knowing and voluntary one supported by  
13 an independent basis in fact containing all of the essential  
14 elements of the offense charged, therefore the plea is  
15 conditionally accepted.

16 It's for that reason, sir, that I asked you to sign  
17 this form that allows me and you to look at the presentence  
18 report because, under the criminal rules, I can't look at that  
19 report until I have finally accepted the guilty plea unless  
20 you consent in writing.

21 Do you understand the reason for that consent and  
22 for the form? In other words, unless you consent in writing,  
23 I can't look at the presentence report or go forward with  
24 sentencing until after I've accepted the plea.

25 So do you understand the purpose of the form, sir?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Is there any reason why he shouldn't  
3 sign it, counsel?

4 MR. GRASSO: No, your Honor, he signed it and I  
5 signed it.

6 THE COURT: And it is voluntary on your part?

7 THE DEFENDANT: Yes.

8 THE COURT: I'll also sign it and approve it.  
9 I've made the finding.

10 I'll now order that presentence investigation  
11 report, Mr. Croft, by the probation department. The officer  
12 will make an appointment to interview you for the report. I  
13 do urge your full cooperation in giving information to the  
14 officer because, as you might imagine, the report is very  
15 important in determining your sentence.

16 However you have the right to read it, review it,  
17 comment upon it before it's presented to the Court, and you  
18 have the right to have your attorney, Mr. Grasso, present with  
19 you when you give information to the officer to object or to  
20 tell you not answer questions, for example.

21 A sentencing date, please.

22 THE CLERK: Your Honor, sentencing is set for  
23 March 18, 2014, at 1:30 p.m. in this courtroom number four.

24 THE COURT: Your attorney will remind you of the  
25 date and time.

1           Unless there's objection, I will order Mr. Croft's  
2 continued custody status.

3           MR. GRASSO: And, your Honor, if we could, I  
4 know it's important to Mr. Croft, and I just want this to go  
5 as smoothly as possible, I'm obviously remaining -- and I  
6 think Mr. Croft is okay with me remaining as his counsel, I  
7 have already indicated to him --

8           THE COURT: For sentencing at least.

9           MR. GRASSO: For sentencing, and I've already  
10 indicated to him that, you know, bygones are bygones,  
11 whatever.

12          THE COURT: We've scheduled a date and time for  
13 sentencing. If you become aware that the presentence report  
14 is finished earlier, I'm at your beck and call, you can move  
15 the date up.

16          MR. GRASSO: And another thing is I think  
17 Mr. Croft wanted me to recite what the calculations are in the  
18 plea agreement which we really haven't done on the record.

19          THE COURT: You can, and with Mr. Croft's  
20 understanding that I'm the one who makes the final  
21 calculation. Neither the government nor Mr. Croft can argue  
22 anything different from the calculation contained in the plea  
23 agreement, but I'm at liberty to do something different. So  
24 you certainly may recite them subject to that understanding.

25          MR. GRASSO: Thank you, your Honor.

1           Based on this plea, the base offense level for Count  
2 1 is 20. The base offense level for Count 20 -- I mean, for  
3 Count 11 is 20.

4           The government is going to argue to the Court to  
5 apply a five-level enhancement for the brandishing, and then  
6 also the government is going to argue to the Court to apply a  
7 two-level enhancement for the substantial risk of harm from  
8 the chase with law enforcement that's alleged. So you have a  
9 27 as the adjusted base offense level.

10           The -- Count 1 of the other -- the 0054 indictment,  
11 the tampering, is a base offense level of 14, plus 8 for  
12 threatening bodily harm, therefore that one is a 24, it's  
13 therefore under the 27.

14           And then there's a combined offense level issue  
15 which, when it's all said and done, comes out to a base  
16 offense level, after either a reduction of minus two or minus  
17 three for the acceptance, either a 26 or a 25.

18           Now, part of this plea, and this is the important  
19 part that Mr. Croft wanted me to recite, the government is  
20 allowing the defense, as part of the plea agreement, to argue  
21 to this Court three issues, one being the combined offense  
22 level calculations as they're calculated one way by the  
23 government, one way by probation, and we can step in at  
24 sentencing and make our argument regarding what's the proper  
25 combined offense level calculation.

1           Also, we're allowed under this plea agreement to  
2 argue to the Court that the plus five does not apply because  
3 there's already a 924(c) for brandishing, and there's a whole  
4 lot of case law on that stuff, and that the plus two does not  
5 apply because the automobile chase was not, as the Court -- as  
6 the Court read, it was a short chase, therefore we're going to  
7 be arguing that the plus two should not apply either.

8           And if that's the case, if the Court accepts that,  
9 the plus five and plus two, or any combination thereof, but if  
10 the plus five and plus two don't apply, Mr. Croft has -- the  
11 additional levels not applying, that the guideline  
12 calculations come out to, with a minus two or minus three for  
13 acceptance, a 19 or an 18 on top of the 84 months for the  
14 924(c).

15           THE COURT: Now, just to clarify, you've just  
16 simply recited to me what's in the plea agreement, correct?

17           MR. GRASSO: Reciting --

18           THE COURT: Nothing different from the plea  
19 agreement.

20           MR. GRASSO: Nothing different from the plea  
21 agreement.

22           THE COURT: Okay. And you understand,  
23 Mr. Croft, that, again, that's binding on the parties, but  
24 it's not binding on me. It's Probation, my department, that  
25 makes recommendation to me of the proper calculation, and I'm

1 the one who has to finally find which guideline applies, and  
2 I'm at liberty to do so. Also, I'm at liberty -- and if I  
3 disagree with the final calculation as I find it, I'm liberty  
4 to set a sentence that's higher or lower than the guideline;  
5 you understand that.

6 THE DEFENDANT: Yes.

7 THE COURT: All right. Very good.

8 MR. GRASSO: Thank you, your Honor.

9 THE COURT: Thank you so much. Thank you,  
10 Mr. Croft.

11 -o0o-

12  
13 I certify that the foregoing is a correct  
14 transcript from the record of proceedings  
in the above-entitled matter.

15 /s/Margaret E. Griener 01/07/2014  
16 Margaret E. Griener, CCR #3, RDR  
17 Official Reporter  
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<b>\$</b>	46:4, 46:5 <b>2013</b> [6] - 1:6, 2:1, 4:23, 35:19, 36:7, 46:17 <b>2014</b> [3] - 5:25, 6:18, 51:23 <b>21st</b> [1] - 46:4 <b>22nd</b> [1] - 46:5 <b>24</b> [2] - 24:6, 53:12 <b>25</b> [1] - 53:17 <b>250,000</b> [3] - 30:24, 31:4, 31:21 <b>26</b> [1] - 53:17 <b>27</b> [2] - 53:9, 53:13 <b>27th</b> [1] - 46:5 <b>28</b> [2] - 28:8, 44:19 <b>2:13-19</b> [4] - 30:21, 47:2, 48:5, 50:2 <b>2:13-54</b> [2] - 29:18, 50:2 <b>2:13-CR-19</b> [4] - 23:13, 35:18, 36:12, 38:6 <b>2:13-CR-19-RCJ- GWF</b> [1] - 1:4 <b>2:13-CR-54</b> [4] - 23:14, 31:19, 36:6, 46:16 <b>2:13-CR-54-RCJ- CWH</b> [1] - 1:5 <b>2:30</b> [1] - 44:19	1:24 <b>8</b> <b>8</b> [1] - 53:11 <b>84</b> [2] - 38:5, 54:13 <b>89501</b> [1] - 1:23 <b>9</b> <b>90</b> [4] - 41:25, 42:1, 42:8, 42:9 <b>924(c)</b> [3] - 28:16, 29:1, 54:3 <b>924(c)</b> [2] - 23:11, 54:14 <b>924(c)(1)(A)(ii)</b> [1] - 35:25 <b>9:00</b> [4] - 5:25, 6:1, 6:12, 6:18 <b>9:12</b> [1] - 2:1 <b>A</b> <b>a.m</b> [5] - 5:25, 6:1, 6:12, 6:18, 44:19 <b>A.M</b> [1] - 2:1 <b>abide</b> [1] - 32:15 <b>able</b> [1] - 45:19 <b>abolished</b> [1] - 37:23 <b>above-entitled</b> [1] - 55:14 <b>accept</b> [5] - 18:21, 26:18, 27:7, 50:5, 50:8 <b>acceptance</b> [5] - 37:2, 37:4, 38:7, 53:17, 54:13 <b>accepted</b> [4] - 8:6, 50:15, 50:19, 50:24 <b>accepting</b> [2] - 23:16, 44:6 <b>accepts</b> [2] - 33:16, 54:8 <b>accomplish</b> [1] - 28:13 <b>according</b> [2] - 4:17, 14:2 <b>acknowledge</b> [2] - 34:23, 49:25 <b>acknowledgements</b> [1] - 38:16 <b>acknowledges</b> [5] - 36:19, 37:6, 37:15, 38:8, 48:4 <b>Act</b> [1] - 41:13 <b>acted</b> [2] - 29:15, 30:1 <b>acting</b> [1] - 35:2 <b>acts</b> [1] - 38:6 <b>actual</b> [1] - 29:14	<b>add</b> [1] - 33:4 <b>added</b> [2] - 16:22, 16:23 <b>addiction</b> [1] - 24:11 <b>addition</b> [1] - 32:9 <b>additional</b> [8] - 32:17, 37:17, 37:18, 46:2, 46:3, 46:22, 48:3, 54:11 <b>additionally</b> [1] - 47:8 <b>addressed</b> [1] - 47:20 <b>adjudged</b> [1] - 33:17 <b>adjusted</b> [1] - 53:9 <b>adjustment</b> [2] - 38:7, 38:12 <b>admit</b> [1] - 44:14 <b>admits</b> [1] - 48:9 <b>admitted</b> [1] - 46:2 <b>admitting</b> [4] - 26:22, 30:13, 49:15 <b>admonished</b> [1] - 47:14 <b>adopt</b> [1] - 42:6 <b>advice</b> [2] - 35:3 <b>advisory</b> [2] - 36:22, 43:2 <b>affect</b> [1] - 43:19 <b>affected</b> [2] - 29:17, 48:7 <b>affirm</b> [1] - 18:24 <b>aforementioned</b> [1] - 46:7 <b>afternoon</b> [1] - 4:17 <b>agents</b> [1] - 46:21 <b>ago</b> [4] - 2:16, 3:20, 4:10, 7:8 <b>agree</b> [6] - 3:12, 9:6, 38:24, 39:23, 40:1 <b>agreed</b> [15] - 2:15, 2:16, 3:14, 9:22, 10:18, 10:19, 13:13, 13:21, 14:16, 16:11, 17:11, 17:12, 34:24 <b>agreeing</b> [2] - 7:15, 43:16 <b>agreement</b> [64] - 3:15, 3:18, 3:21, 9:4, 11:23, 11:25, 12:5, 12:7, 12:22, 13:3, 13:5, 13:10, 13:13, 13:14, 13:16, 13:18, 13:21, 13:22, 14:3, 14:4, 14:16, 14:17, 14:21, 14:23, 14:25, 15:5, 15:6, 15:17, 15:18, 15:25, 16:6, 17:9, 18:4, 18:5, 18:21, 19:16, 19:19, 21:12, 34:6, 35:6, 35:10, 35:14, 36:11,	36:16, 37:12, 37:21, 38:12, 38:15, 38:22, 38:25, 39:12, 39:25, 40:10, 40:23, 49:4, 49:9, 52:18, 52:23, 53:20, 54:1, 54:16, 54:19, 54:21 <b>agrees</b> [4] - 35:16, 36:4, 36:10, 36:13 <b>alcoholic</b> [1] - 24:8 <b>allegation</b> [1] - 48:22 <b>allegations</b> [2] - 36:12, 48:20 <b>alleged</b> [1] - 53:8 <b>allocute</b> [1] - 44:4 <b>allow</b> [1] - 10:9 <b>allowed</b> [1] - 54:1 <b>allowing</b> [1] - 53:20 <b>allows</b> [1] - 50:17 <b>almost</b> [1] - 38:18 <b>amended</b> [1] - 44:11 <b>AMERICA</b> [1] - 1:4 <b>ammunition</b> [1] - 48:16 <b>and</b> (2) [1] - 35:25 <b>answer</b> [2] - 22:16, 51:20 <b>answered</b> [1] - 41:21 <b>anyway</b> [1] - 17:21 <b>apologize</b> [4] - 16:19, 16:20, 20:24, 23:2 <b>appeal</b> [2] - 43:9, 43:11 <b>appear</b> [2] - 30:5 <b>appearances</b> [1] - 2:5 <b>APPEARANCES</b> [1] - 1:13 <b>appearing</b> [1] - 2:7 <b>appellate</b> [1] - 38:18 <b>applicable</b> [4] - 37:13, 38:2, 38:3, 38:20 <b>applied</b> [1] - 34:3 <b>applies</b> [1] - 55:1 <b>apply</b> [7] - 41:19, 53:5, 53:6, 54:2, 54:5, 54:7, 54:10 <b>applying</b> [1] - 54:11 <b>appointed</b> [1] - 25:10 <b>appointment</b> [1] - 51:12 <b>approached</b> [1] - 45:2 <b>approve</b> [1] - 51:8 <b>area</b> [1] - 45:8 <b>argue</b> [8] - 38:3, 40:17, 40:22, 52:21, 53:4, 53:6, 53:20, 54:2 <b>arguing</b> [1] - 54:7 <b>argument</b> [2] - 41:1, 53:24
<b>1</b>	<b>1</b> [16] - 23:13, 27:25, 29:8, 29:18, 30:21, 31:20, 35:20, 36:8, 44:20, 46:16, 50:1, 50:2, 53:2, 53:10 <b>1)(A)(ii)and</b> [1] - 28:17 <b>11</b> [9] - 1:6, 2:1, 23:13, 29:9, 30:22, 36:1, 44:20, 50:1, 53:3 <b>11th</b> [1] - 4:23 <b>12</b> [1] - 25:19 <b>13</b> [2] - 5:25, 6:12 <b>13-19</b> [1] - 44:20 <b>13-CR-19</b> [1] - 29:9 <b>14</b> [1] - 53:11 <b>15</b> [1] - 35:19 <b>1512(b)</b> [2] - 29:19, 36:9 <b>16</b> [1] - 46:17 <b>18</b> [12] - 28:1, 28:16, 29:9, 29:19, 35:21, 35:24, 36:2, 36:9, 37:22, 38:13, 51:23, 54:13 <b>19</b> [1] - 54:13 <b>1951</b> [3] - 28:1, 35:22, 36:2 <b>1951(a)</b> [1] - 29:10 <b>1:30</b> [1] - 51:23	<b>3</b> <b>3</b> [2] - 1:22, 55:15 <b>300</b> [3] - 45:10, 45:14, 46:14 <b>3553</b> [2] - 37:22, 38:13 <b>3rd</b> [1] - 6:18 <b>4</b> <b>40-caliber</b> [1] - 48:14 <b>400</b> [1] - 1:23 <b>4A1.3(b)(1)</b> [1] - 38:14 <b>5</b> <b>5:00</b> [3] - 10:15, 13:25, 16:8 <b>5th</b> [1] - 36:7 <b>6</b> <b>60</b> [1] - 42:1 <b>7</b> <b>700</b> [1] - 44:21 <b>775)329-9980</b> [1] -	<b>add</b> [1] - 33:4 <b>added</b> [2] - 16:22, 16:23 <b>addiction</b> [1] - 24:11 <b>addition</b> [1] - 32:9 <b>additional</b> [8] - 32:17, 37:17, 37:18, 46:2, 46:3, 46:22, 48:3, 54:11 <b>additionally</b> [1] - 47:8 <b>addressed</b> [1] - 47:20 <b>adjudged</b> [1] - 33:17 <b>adjusted</b> [1] - 53:9 <b>adjustment</b> [2] - 38:7, 38:12 <b>admit</b> [1] - 44:14 <b>admits</b> [1] - 48:9 <b>admitted</b> [1] - 46:2 <b>admitting</b> [4] - 26:22, 30:13, 49:15 <b>admonished</b> [1] - 47:14 <b>adopt</b> [1] - 42:6 <b>advice</b> [2] - 35:3 <b>advisory</b> [2] - 36:22, 43:2 <b>affect</b> [1] - 43:19 <b>affected</b> [2] - 29:17, 48:7 <b>affirm</b> [1] - 18:24 <b>aforementioned</b> [1] - 46:7 <b>afternoon</b> [1] - 4:17 <b>agents</b> [1] - 46:21 <b>ago</b> [4] - 2:16, 3:20, 4:10, 7:8 <b>agree</b> [6] - 3:12, 9:6, 38:24, 39:23, 40:1 <b>agreed</b> [15] - 2:15, 2:16, 3:14, 9:22, 10:18, 10:19, 13:13, 13:21, 14:16, 16:11, 17:11, 17:12, 34:24 <b>agreeing</b> [2] - 7:15, 43:16 <b>agreement</b> [64] - 3:15, 3:18, 3:21, 9:4, 11:23, 11:25, 12:5, 12:7, 12:22, 13:3, 13:5, 13:10, 13:13, 13:14, 13:16, 13:18, 13:21, 13:22, 14:3, 14:4, 14:16, 14:17, 14:21, 14:23, 14:25, 15:5, 15:6, 15:17, 15:18, 15:25, 16:6, 17:9, 18:4, 18:5, 18:21, 19:16, 19:19, 21:12, 34:6, 35:6, 35:10, 35:14, 36:11,	36:16, 37:12, 37:21, 38:12, 38:15, 38:22, 38:25, 39:12, 39:25, 40:10, 40:23, 49:4, 49:9, 52:18, 52:23, 53:20, 54:1, 54:16, 54:19, 54:21 <b>agrees</b> [4] - 35:16, 36:4, 36:10, 36:13 <b>alcoholic</b> [1] - 24:8 <b>allegation</b> [1] - 48:22 <b>allegations</b> [2] - 36:12, 48:20 <b>alleged</b> [1] - 53:8 <b>allocute</b> [1] - 44:4 <b>allow</b> [1] - 10:9 <b>allowed</b> [1] - 54:1 <b>allowing</b> [1] - 53:20 <b>allows</b> [1] - 50:17 <b>almost</b> [1] - 38:18 <b>amended</b> [1] - 44:11 <b>AMERICA</b> [1] - 1:4 <b>ammunition</b> [1] - 48:16 <b>and</b> (2) [1] - 35:25 <b>answer</b> [2] - 22:16, 51:20 <b>answered</b> [1] - 41:21 <b>anyway</b> [1] - 17:21 <b>apologize</b> [4] - 16:19, 16:20, 20:24, 23:2 <b>appeal</b> [2] - 43:9, 43:11 <b>appear</b> [2] - 30:5 <b>appearances</b> [1] - 2:5 <b>APPEARANCES</b> [1] - 1:13 <b>appearing</b> [1] - 2:7 <b>appellate</b> [1] - 38:18 <b>applicable</b> [4] - 37:13, 38:2, 38:3, 38:20 <b>applied</b> [1] - 34:3 <b>applies</b> [1] - 55:1 <b>apply</b> [7] - 41:19, 53:5, 53:6, 54:2, 54:5, 54:7, 54:10 <b>applying</b> [1] - 54:11 <b>appointed</b> [1] - 25:10 <b>appointment</b> [1] - 51:12 <b>approached</b> [1] - 45:2 <b>approve</b> [1] - 51:8 <b>area</b> [1] - 45:8 <b>argue</b> [8] - 38:3, 40:17, 40:22, 52:21, 53:4, 53:6, 53:20, 54:2 <b>arguing</b> [1] - 54:7 <b>argument</b> [2] - 41:1, 53:24



<p><b>armed</b> [1] - 44:20  <b>arrested</b> [1] - 45:17  <b>assessment</b> [2] - 32:2, 37:24  <b>assistance</b> [1] - 38:19  <b>Assistant</b> [1] - 1:15  <b>assisting</b> [1] - 46:2  <b>associate</b> [5] - 9:5, 10:3, 12:2, 12:6, 12:9  <b>assuming</b> [1] - 19:23  <b>attacked</b> [1] - 47:23  <b>attempted</b> [1] - 29:24  <b>attorney</b> [18] - 3:7, 26:7, 27:17, 34:10, 34:25, 40:17, 40:22, 41:18, 42:13, 47:5, 47:7, 47:9, 47:11, 47:15, 47:19, 51:18, 51:24  <b>Attorney</b> [1] - 1:18  <b>attorney's</b> [1] - 35:3  <b>Attorneys</b> [1] - 1:15  <b>attorneys</b> [1] - 35:7  <b>automatic</b> [1] - 44:25  <b>automobile</b> [2] - 46:14, 54:5  <b>available</b> [2] - 6:10, 42:14  <b>aware</b> [5] - 30:17, 30:20, 40:9, 46:20, 52:13</p>	<p><b>bet</b> [1] - 17:16  <b>between</b> [2] - 17:1, 47:12  <b>beverages</b> [1] - 24:8  <b>beyond</b> [2] - 26:1, 28:6  <b>bind</b> [5] - 15:6, 15:7, 15:22, 15:25, 40:11  <b>binding</b> [5] - 15:5, 15:18, 42:17, 54:23, 54:24  <b>binds</b> [2] - 40:10  <b>bit</b> [3] - 23:20, 32:5, 41:12  <b>black</b> [6] - 44:25, 45:10, 45:14, 45:18, 46:11, 48:15  <b>bodily</b> [1] - 53:12  <b>bottom</b> [2] - 7:12, 48:15  <b>bound</b> [6] - 15:20, 17:12, 17:17, 41:9, 42:21, 43:5  <b>brandish</b> [1] - 28:18  <b>brandished</b> [1] - 28:22  <b>brandishing</b> [5] - 31:3, 31:25, 35:23, 53:5, 54:3  <b>brief</b> [1] - 45:15  <b>briefly</b> [1] - 44:17  <b>bring</b> [1] - 22:9  <b>brother</b> [1] - 47:9  <b>brought</b> [3] - 18:19, 45:5  <b>bump</b> [1] - 6:7  <b>bumping</b> [2] - 6:10, 6:11  <b>burden</b> [3] - 25:24, 26:1, 26:3  <b>bygones</b> [2] - 52:10</p>	<p><b>cannot</b> [2] - 5:8, 40:25  <b>capable</b> [1] - 50:11  <b>captured</b> [1] - 45:13  <b>car</b> [2] - 45:15, 45:18  <b>carried</b> [2] - 28:22, 48:24  <b>carry</b> [3] - 25:24, 26:1, 29:1  <b>carrying</b> [3] - 29:5, 29:6, 44:25  <b>case</b> [31] - 4:20, 6:2, 6:4, 6:5, 6:8, 6:9, 6:13, 23:13, 23:14, 24:17, 25:11, 30:6, 30:21, 31:19, 32:7, 32:11, 34:7, 35:18, 36:6, 36:12, 38:5, 41:19, 46:16, 47:2, 48:5, 49:16, 50:1, 50:2, 50:9, 54:4, 54:8  <b>cases</b> [2] - 14:24, 47:4  <b>cash</b> [1] - 45:7  <b>category</b> [1] - 37:9  <b>caught</b> [1] - 16:23  <b>caused</b> [2] - 35:9, 40:3  <b>CCDC</b> [1] - 47:20  <b>CCR</b> [2] - 1:22, 55:15  <b>cell</b> [1] - 47:23  <b>cellular</b> [2] - 47:10, 47:14  <b>Center</b> [1] - 47:18  <b>certainly</b> [5] - 16:19, 33:5, 40:22, 42:13, 52:24  <b>certify</b> [1] - 55:13  <b>chance</b> [2] - 6:9, 50:7  <b>CHANGE</b> [1] - 1:11  <b>change</b> [8] - 2:12, 2:13, 5:5, 16:24, 17:14, 17:16, 18:17, 42:6  <b>changed</b> [8] - 4:1, 4:3, 9:25, 15:1, 15:14, 15:16, 16:12, 16:25  <b>charge</b> [1] - 36:5  <b>charged</b> [12] - 26:23, 27:25, 28:10, 28:16, 28:21, 28:24, 29:8, 29:19, 37:13, 48:8, 50:1, 50:14  <b>charges</b> [14] - 14:24, 15:1, 22:19, 22:23, 27:22, 30:8, 30:9, 35:17, 39:14, 39:17, 39:21, 43:18, 46:25, 48:3  <b>chase</b> [5] - 45:15, 45:19, 53:8, 54:5, 54:6</p>	<p><b>CHIEF</b> [1] - 1:2  <b>Chilicia</b> [4] - 28:9, 44:24, 45:16, 46:24  <b>chose</b> [2] - 27:23, 43:4  <b>Chrysler</b> [3] - 45:10, 45:14, 46:14  <b>cigarettes</b> [2] - 45:6, 45:23  <b>Circle</b> [1] - 44:21  <b>Circuit</b> [1] - 46:18  <b>civil</b> [2] - 6:14, 33:18  <b>claims</b> [1] - 38:19  <b>clarify</b> [1] - 54:15  <b>Clark</b> [1] - 47:17  <b>classes</b> [1] - 24:18  <b>CLERK</b> [10] - 4:23, 5:2, 5:24, 6:3, 6:6, 6:14, 6:18, 21:14, 22:1, 51:22  <b>clerk</b> [3] - 45:3, 45:11  <b>Clerk</b> [2] - 5:19, 21:11  <b>clerk's</b> [2] - 45:7, 45:17  <b>client</b> [3] - 14:9, 22:9, 34:21  <b>clients</b> [1] - 11:19  <b>closed</b> [1] - 16:15  <b>coconspirator</b> [1] - 29:4  <b>Code</b> [10] - 28:1, 28:16, 29:9, 29:19, 35:21, 35:24, 36:2, 36:9, 37:22, 38:13  <b>codefendant</b> [3] - 34:4, 44:24, 46:15  <b>codefendants</b> [1] - 45:16  <b>college</b> [3] - 24:1, 24:2  <b>combination</b> [1] - 54:9  <b>combine</b> [1] - 32:24  <b>combined</b> [3] - 53:14, 53:21, 53:25  <b>coming</b> [1] - 16:19  <b>comment</b> [1] - 51:17  <b>commerce</b> [9] - 28:3, 28:10, 29:11, 29:16, 30:22, 30:23, 35:20, 36:1, 48:6  <b>Commission</b> [1] - 41:14  <b>commission</b> [1] - 48:13  <b>commit</b> [1] - 48:13  <b>commits</b> [1] - 38:6  <b>committed</b> [2] - 26:23, 28:20  <b>committing</b> [2] - 46:4, 46:14  <b>competence</b> [1] - 25:3  <b>competent</b> [4] - 25:8, 26:2, 28:5, 50:11</p>	<p><b>completely</b> [1] - 41:16  <b>complex</b> [1] - 15:9  <b>complications</b> [2] - 19:25, 20:1  <b>comply</b> [2] - 21:9, 41:15  <b>concealed</b> [2] - 45:12, 46:11  <b>concept</b> [1] - 43:14  <b>concerned</b> [1] - 5:9  <b>conditional</b> [1] - 50:6  <b>conditionally</b> [2] - 50:4, 50:15  <b>conditions</b> [1] - 32:15  <b>conduct</b> [3] - 37:12, 43:15, 43:18  <b>confessed</b> [1] - 46:3  <b>confession</b> [1] - 46:1  <b>confused</b> [2] - 42:23, 42:25  <b>consecutive</b> [3] - 31:8, 31:25, 38:5  <b>consecutively</b> [2] - 31:11, 31:15  <b>consent</b> [5] - 12:16, 12:20, 50:20, 50:21, 50:22  <b>consequences</b> [1] - 38:23  <b>consequently</b> [1] - 5:12  <b>consider</b> [2] - 36:20, 37:11  <b>conspiracy</b> [4] - 28:2, 28:13, 30:22, 35:20  <b>conspired</b> [1] - 28:9  <b>constitutes</b> [1] - 48:10  <b>constitution</b> [1] - 25:15  <b>consult</b> [2] - 41:15, 41:16  <b>contained</b> [3] - 40:3, 40:18, 52:22  <b>containing</b> [1] - 50:13  <b>contempt</b> [1] - 2:23  <b>content</b> [1] - 13:9  <b>contents</b> [1] - 11:23  <b>continuance</b> [1] - 5:9  <b>continue</b> [1] - 10:9  <b>continued</b> [3] - 4:24, 5:3, 52:2  <b>continuing</b> [1] - 28:7  <b>convenience</b> [2] - 46:8, 48:4  <b>conversation</b> [5] - 8:6, 12:7, 15:12, 17:1  <b>conversations</b> [2] - 14:12  <b>conveyed</b> [1] - 34:19</p>
<b>B</b>				
<p><b>background</b> [2] - 42:4, 43:20  <b>bag</b> [2] - 45:4, 45:23  <b>base</b> [7] - 15:4, 37:6, 53:1, 53:2, 53:9, 53:11, 53:15  <b>based</b> [4] - 7:13, 25:6, 46:13, 53:1  <b>basic</b> [1] - 41:17  <b>basis</b> [2] - 22:7, 50:13  <b>bearing</b> [1] - 48:15  <b>became</b> [1] - 28:12  <b>beck</b> [1] - 52:14  <b>become</b> [2] - 47:5, 52:13  <b>BEFORE</b> [1] - 1:2  <b>begin</b> [1] - 5:8  <b>beginning</b> [4] - 3:3, 3:6, 6:15, 28:7  <b>behalf</b> [3] - 2:7, 2:10, 26:11  <b>behest</b> [1] - 5:10  <b>behind</b> [1] - 45:2  <b>below</b> [2] - 38:10, 43:11</p>	<b>C</b>			
<p><b>calculate</b> [2] - 37:16, 43:10  <b>calculated</b> [2] - 40:23, 53:22  <b>calculates</b> [3] - 40:15, 40:21, 41:4  <b>calculating</b> [1] - 16:1  <b>calculation</b> [12] - 15:3, 15:10, 16:11, 17:2, 17:5, 17:21, 39:19, 52:21, 52:22, 53:25, 54:25, 55:3  <b>calculations</b> [5] - 15:9, 37:1, 52:17, 53:22, 54:12  <b>calendar</b> [3] - 5:4, 5:6, 21:12</p>				

<p><b>convicted</b> [2] - 25:21, 28:25</p> <p><b>convictions</b> [1] - 43:20</p> <p><b>cooperation</b> [2] - 47:24, 51:13</p> <p><b>copies</b> [2] - 9:24, 18:19</p> <p><b>copy</b> [14] - 13:6, 18:8, 18:10, 18:11, 18:12, 18:13, 18:22, 20:25, 21:3, 21:24, 21:25, 22:19, 27:10</p> <p><b>correct</b> [16] - 5:2, 6:3, 6:6, 9:13, 14:20, 16:2, 16:21, 17:22, 21:25, 23:14, 23:15, 39:13, 44:9, 44:12, 54:16, 55:13</p> <p><b>correction</b> [1] - 16:21</p> <p><b>counsel</b> [13] - 7:17, 7:21, 8:9, 8:17, 13:17, 19:11, 22:19, 25:2, 31:7, 34:19, 38:20, 51:3, 52:6</p> <p><b>Counsel</b> [1] - 38:24</p> <p><b>count</b> [4] - 31:10, 32:3, 37:24, 49:5</p> <p><b>Count</b> [17] - 23:13, 27:25, 28:15, 29:18, 31:3, 31:20, 35:20, 35:23, 36:1, 36:8, 38:5, 46:16, 50:2, 53:1, 53:2, 53:3, 53:10</p> <p><b>counter</b> [1] - 45:2</p> <p><b>counts</b> [9] - 23:8, 23:9, 26:24, 30:18, 36:14, 37:11, 43:17, 49:17, 49:20</p> <p><b>Counts</b> [5] - 23:13, 29:8, 30:21, 44:20, 50:1</p> <p><b>County</b> [1] - 47:17</p> <p><b>course</b> [4] - 4:15, 6:11, 31:24, 43:8</p> <p><b>court</b> [4] - 7:8, 19:1, 19:12, 46:24</p> <p><b>COURT</b> [222] - 1:1, 2:4, 2:11, 2:20, 2:23, 3:4, 3:15, 3:19, 3:23, 4:2, 4:4, 4:9, 4:12, 4:19, 4:22, 4:24, 5:3, 5:15, 5:17, 6:1, 6:4, 6:7, 6:17, 6:19, 7:6, 7:9, 7:12, 7:15, 7:17, 7:21, 8:1, 8:9, 8:15, 8:22, 8:25, 9:3, 9:14, 9:21, 10:5, 10:8, 10:15, 10:17, 11:3,</p>	<p>11:14, 11:22, 12:2, 12:5, 12:11, 12:13, 12:16, 12:19, 12:21, 12:24, 13:4, 13:7, 13:14, 13:16, 13:20, 14:6, 14:9, 14:14, 15:5, 15:14, 15:17, 15:20, 15:22, 15:24, 16:5, 16:8, 16:10, 16:14, 17:2, 17:5, 17:7, 17:9, 17:12, 17:16, 17:22, 17:25, 18:14, 18:17, 18:24, 19:1, 19:6, 19:9, 19:11, 19:15, 19:21, 20:1, 20:4, 20:9, 20:14, 20:18, 20:23, 21:2, 21:7, 21:15, 21:19, 21:23, 22:2, 22:6, 22:9, 22:15, 22:18, 22:21, 22:23, 23:1, 23:5, 23:8, 23:12, 23:16, 23:22, 23:25, 24:2, 24:4, 24:6, 24:10, 24:14, 24:19, 24:22, 24:24, 25:2, 25:6, 25:15, 25:19, 25:23, 26:5, 26:10, 26:13, 26:18, 26:22, 27:1, 27:6, 27:10, 27:14, 27:16, 27:19, 27:21, 30:12, 30:17, 30:20, 31:2, 31:7, 31:10, 31:13, 31:17, 31:24, 32:5, 32:14, 32:19, 32:24, 33:9, 33:13, 33:16, 33:22, 33:25, 34:3, 34:6, 34:9, 34:12, 34:15, 34:17, 34:19, 34:23, 35:2, 35:5, 35:13, 38:24, 39:2, 39:7, 39:11, 39:15, 39:18, 39:22, 39:24, 40:2, 40:6, 40:9, 40:14, 40:20, 40:25, 41:3, 41:7, 41:12, 41:21, 41:24, 42:9, 42:12, 42:16, 42:21, 42:24, 43:1, 43:8, 43:14, 43:23, 44:3, 44:7, 44:11, 44:14, 44:17, 48:19, 48:22, 48:25, 49:3, 49:8, 49:12, 49:14, 49:19, 49:22, 49:25, 51:2, 51:6, 51:8, 51:24, 52:8, 52:12, 52:19, 54:15, 54:18, 54:22, 55:7, 55:9</p> <p><b>Court</b> [41] - 9:11, 9:12,</p>	<p>9:15, 10:2, 10:3, 10:12, 11:10, 11:16, 13:3, 13:6, 15:18, 15:22, 15:25, 18:22, 26:6, 32:9, 32:16, 33:4, 33:10, 33:16, 36:19, 36:22, 37:6, 37:8, 37:11, 37:18, 38:4, 38:8, 38:21, 40:11, 41:14, 46:18, 50:9, 51:17, 53:4, 53:6, 53:21, 54:2, 54:5, 54:6, 54:8</p> <p><b>courtroom</b> [9] - 46:23, 47:4, 47:11, 47:13, 48:21, 48:23, 48:24, 49:2, 51:23</p> <p><b>covered</b> [1] - 38:11</p> <p><b>coward</b> [1] - 2:15</p> <p><b>credit</b> [1] - 32:21</p> <p><b>crime</b> [12] - 28:2, 28:17, 28:18, 28:20, 28:23, 29:2, 29:4, 29:5, 29:10, 29:20, 31:4, 35:24</p> <p><b>criminal</b> [11] - 6:4, 6:9, 32:7, 35:17, 37:7, 37:8, 37:9, 43:20, 48:11, 48:13, 50:18</p> <p><b>CRISTINA</b> [1] - 1:14</p> <p><b>Cristina</b> [3] - 2:7, 4:16, 8:2</p> <p><b>CROFT</b> [1] - 1:7</p> <p><b>Croft</b> [47] - 2:5, 2:10, 2:13, 5:13, 22:4, 22:11, 23:17, 28:8, 28:12, 28:20, 28:21, 29:13, 29:15, 39:3, 39:8, 44:7, 45:1, 45:3, 45:5, 45:6, 45:7, 45:9, 45:16, 46:2, 46:4, 46:17, 46:20, 46:23, 46:25, 47:3, 47:7, 47:12, 47:13, 47:16, 47:21, 47:22, 48:1, 50:10, 51:11, 52:4, 52:6, 52:17, 52:21, 53:19, 54:10, 54:23, 55:10</p> <p><b>Croft's</b> [6] - 5:20, 46:22, 47:9, 47:13, 52:1, 52:19</p> <p><b>cross</b> [1] - 26:8</p> <p><b>cross-examine</b> [1] - 26:8</p> <p><b>crying</b> [1] - 47:6</p> <p><b>custody</b> [3] - 2:10, 47:17, 52:2</p>	<p><b>D</b></p> <p><b>DA</b> [1] - 2:16</p> <p><b>date</b> [9] - 4:20, 5:19, 5:24, 28:7, 42:14, 51:21, 51:25, 52:12, 52:15</p> <p><b>dates</b> [1] - 5:23</p> <p><b>days</b> [4] - 41:25, 42:1, 42:8, 42:9</p> <p><b>deal</b> [38] - 2:17, 3:10, 3:12, 3:13, 4:3, 4:6, 4:7, 4:11, 4:14, 4:15, 4:18, 5:12, 6:22, 6:23, 6:24, 6:25, 7:2, 7:15, 7:17, 7:20, 7:21, 8:4, 8:6, 8:16, 9:17, 9:18, 9:19, 9:21, 9:23, 9:24, 9:25, 11:21, 20:19</p> <p><b>dealing</b> [1] - 8:17</p> <p><b>deals</b> [1] - 14:23</p> <p><b>DECEMBER</b> [1] - 2:1</p> <p><b>December</b> [8] - 1:6, 4:23, 5:1, 28:8, 44:19, 46:4, 46:5</p> <p><b>decide</b> [1] - 21:4</p> <p><b>defendant</b> [32] - 5:5, 5:11, 22:14, 22:18, 25:7, 28:25, 29:1, 29:3, 29:24, 30:1, 30:6, 31:13, 35:16, 36:4, 36:10, 36:14, 36:19, 37:3, 37:6, 37:15, 37:20, 38:2, 38:6, 38:8, 38:10, 38:18, 44:1, 46:12, 48:4, 48:9, 50:10</p> <p><b>Defendant</b> [9] - 1:8, 28:8, 28:12, 28:20, 28:21, 29:13, 29:15, 45:1, 46:17</p> <p><b>DEFENDANT</b> [138] - 1:18, 2:14, 2:21, 2:25, 3:5, 3:17, 3:22, 3:25, 4:3, 4:5, 4:10, 4:21, 5:14, 5:16, 6:21, 7:7, 7:11, 7:14, 7:16, 7:19, 7:25, 8:14, 10:21, 11:1, 11:13, 12:4, 12:25, 13:15, 13:19, 14:18, 16:13, 18:8, 18:16, 19:18, 19:24, 20:3, 20:6, 20:17, 20:22, 21:17, 22:5, 22:8, 22:17, 22:25, 23:4, 23:21, 23:23, 24:1, 24:3, 24:5, 24:9, 24:13, 24:16, 24:21,</p>	<p>24:23, 25:1, 25:14, 25:18, 25:22, 26:4, 26:9, 26:12, 26:17, 26:21, 26:25, 27:5, 27:9, 27:12, 27:15, 27:18, 27:20, 30:11, 30:16, 30:19, 31:1, 31:6, 31:12, 31:16, 31:23, 32:4, 32:13, 32:18, 32:23, 33:8, 33:12, 33:15, 33:21, 33:24, 34:2, 34:5, 34:8, 34:11, 34:14, 34:16, 34:18, 35:1, 35:4, 35:12, 39:14, 39:16, 39:20, 39:23, 40:1, 40:5, 40:7, 40:13, 40:19, 40:24, 41:2, 41:6, 41:11, 41:20, 41:23, 42:8, 42:10, 42:15, 42:20, 42:23, 42:25, 43:7, 43:13, 43:22, 44:10, 44:13, 44:16, 48:18, 48:20, 48:23, 49:1, 49:6, 49:11, 49:13, 49:18, 49:21, 49:24, 51:1, 51:7, 55:6</p> <p><b>defendant's</b> [5] - 25:3, 36:21, 37:7, 37:9, 38:16</p> <p><b>defense</b> [1] - 53:20</p> <p><b>definitely</b> [1] - 42:15</p> <p><b>delay</b> [1] - 30:2</p> <p><b>demanding</b> [1] - 46:10</p> <p><b>depart</b> [1] - 37:14</p> <p><b>department</b> [8] - 16:1, 40:15, 40:16, 40:21, 42:1, 42:12, 51:11, 54:24</p> <p><b>deportation</b> [1] - 38:23</p> <p><b>deprive</b> [1] - 33:17</p> <p><b>derived</b> [1] - 48:10</p> <p><b>detail</b> [1] - 14:22</p> <p><b>detectives</b> [2] - 45:25, 47:18</p> <p><b>Detention</b> [1] - 47:18</p> <p><b>determine</b> [4] - 35:10, 37:8, 41:25, 42:1</p> <p><b>determined</b> [4] - 36:24, 38:4, 38:21, 42:17</p> <p><b>determining</b> [3] - 36:21, 37:13, 51:15</p> <p><b>different</b> [11] - 3:13, 4:6, 4:10, 4:11, 14:3, 14:17, 41:8, 52:22, 52:23, 54:18, 54:20</p> <p><b>differently</b> [2] - 37:16,</p>
---	---	---	--	---

<p>40:15 <b>directly</b> [2] - 28:22, 48:11 <b>disagree</b> [3] - 39:18, 39:24, 55:3 <b>disclaim</b> [1] - 19:21 <b>discovery</b> [2] - 10:24, 11:9 <b>discretion</b> [1] - 36:22 <b>discuss</b> [2] - 25:11, 42:4 <b>discussed</b> [6] - 6:25, 26:20, 27:16, 34:9, 41:18, 43:18 <b>discussion</b> [3] - 37:1, 37:21, 38:15 <b>Discussion</b> [1] - 39:4 <b>dismiss</b> [1] - 36:13 <b>dismissed</b> [2] - 37:11, 47:1 <b>disrespect</b> [1] - 3:6 <b>District</b> [1] - 46:18 <b>DISTRICT</b> [3] - 1:1, 1:1, 1:2 <b>document</b> [2] - 10:6, 19:23 <b>done</b> [4] - 9:16, 14:2, 52:18, 53:15 <b>dory</b> [1] - 11:12 <b>doubt</b> [3] - 25:3, 26:2, 28:6 <b>down</b> [4] - 2:19, 2:22, 20:5, 43:1 <b>downward</b> [2] - 38:7, 38:12 <b>drove</b> [1] - 45:9 <b>drug</b> [1] - 24:18 <b>drugs</b> [2] - 24:7, 24:11 <b>drunk</b> [1] - 24:7 <b>dude</b> [1] - 2:18 <b>during</b> [13] - 8:5, 12:10, 15:10, 26:16, 28:18, 28:23, 29:2, 29:6, 31:3, 45:18, 45:21, 46:24, 47:5 <b>dust</b> [1] - 13:23</p>	<p><b>enforcement</b> [2] - 46:21, 53:8 <b>English</b> [1] - 23:3 <b>enhancement</b> [4] - 23:10, 53:5, 53:7 <b>enter</b> [4] - 5:5, 5:21, 10:8, 13:10 <b>entered</b> [2] - 44:24, 45:2 <b>entering</b> [1] - 50:11 <b>entitled</b> [2] - 25:16, 55:14 <b>envelope</b> [1] - 47:19 <b>error</b> [2] - 16:22, 16:23 <b>especially</b> [1] - 27:22 <b>essential</b> [1] - 50:13 <b>established</b> [1] - 42:18 <b>evidence</b> [3] - 26:2, 26:11, 28:6 <b>exact</b> [1] - 18:5 <b>exactly</b> [8] - 7:16, 11:13, 14:18, 16:3, 16:13, 17:23, 20:3, 49:8 <b>examine</b> [1] - 26:8 <b>example</b> [5] - 26:22, 30:20, 40:14, 40:20, 51:20 <b>exceed</b> [3] - 32:11, 33:1, 33:6 <b>except</b> [2] - 38:19, 40:17 <b>exchange</b> [1] - 47:12 <b>excused</b> [1] - 21:4 <b>execution</b> [1] - 45:21 <b>explain</b> [2] - 8:14, 27:21 <b>explained</b> [3] - 16:3, 27:19, 39:21 <b>explanation</b> [1] - 19:7 <b>expose</b> [1] - 47:23</p>	<p><b>fairness</b> [1] - 35:10 <b>family</b> [3] - 47:8, 47:12, 47:13 <b>far</b> [4] - 5:9, 14:7, 23:22, 23:23 <b>fashion</b> [1] - 32:20 <b>faster</b> [2] - 42:11, 42:13 <b>fault</b> [2] - 8:11, 8:12 <b>fax</b> [9] - 7:17, 7:21, 7:23, 9:4, 9:18, 14:15, 18:5, 19:20, 20:10 <b>faxed</b> [18] - 9:17, 12:6, 15:17, 16:5, 17:23, 18:23, 18:25, 19:2, 19:9, 19:10, 19:12, 19:22, 19:23, 19:25, 20:6, 20:20, 21:5, 21:24 <b>fear</b> [1] - 29:15 <b>February</b> [2] - 6:16, 6:18 <b>federal</b> [1] - 47:1 <b>fee</b> [2] - 32:2, 37:24 <b>felony</b> [2] - 33:13, 33:17 <b>female</b> [1] - 44:23 <b>few</b> [1] - 21:1 <b>fighting</b> [1] - 3:9 <b>final</b> [2] - 52:20, 55:3 <b>finally</b> [9] - 10:12, 29:18, 41:4, 42:5, 42:6, 43:14, 50:8, 50:19, 55:1 <b>fine</b> [3] - 30:23, 31:4, 31:20 <b>finer</b> [1] - 30:18 <b>finish</b> [1] - 12:3 <b>finished</b> [1] - 52:14 <b>firearm</b> [10] - 28:18, 28:23, 29:2, 29:5, 29:6, 31:3, 32:1, 33:19, 35:23, 45:18 <b>first</b> [8] - 6:13, 19:3, 23:20, 24:17, 28:7, 28:20, 29:13, 29:24 <b>five</b> [10] - 19:15, 20:15, 21:4, 21:15, 21:21, 32:11, 53:5, 54:2, 54:9, 54:10 <b>five-level</b> [1] - 53:5 <b>fixed</b> [3] - 40:5, 40:7 <b>fled</b> [1] - 45:9 <b>floor</b> [1] - 45:9 <b>follow</b> [4] - 32:11, 38:9, 40:16, 48:9 <b>followed</b> [2] - 8:18, 38:4 <b>following</b> [4] - 6:14,</p>	<p>35:17, 36:5, 45:15 <b>follows</b> [1] - 29:9 <b>FOR</b> [2] - 1:14, 1:18 <b>force</b> [3] - 29:15, 29:25 <b>forced</b> [2] - 33:22, 45:8 <b>foregoing</b> [1] - 55:13 <b>foreign</b> [2] - 14:7, 14:15 <b>foreseeable</b> [1] - 29:7 <b>forfeits</b> [1] - 37:5 <b>forfeiture</b> [3] - 36:10, 36:11, 38:16 <b>form</b> [3] - 50:17, 50:22, 50:25 <b>format</b> [1] - 20:13 <b>forth</b> [6] - 9:20, 10:11, 10:12, 35:17, 36:5, 36:11 <b>forward</b> [7] - 2:13, 5:11, 5:18, 6:9, 6:13, 22:7, 50:23 <b>four</b> [4] - 23:21, 46:2, 46:3, 51:23 <b>fourth</b> [1] - 23:10 <b>fucking</b> [1] - 2:21 <b>full</b> [2] - 46:1, 51:13 <b>fully</b> [2] - 23:2, 50:10 <b>furnished</b> [1] - 22:18 <b>furtherance</b> [1] - 35:23 <b>future</b> [2] - 21:11, 47:25</p>	<p><b>grand</b> [2] - 35:18, 36:6 <b>Grasso</b> [7] - 2:10, 16:21, 16:23, 20:13, 25:10, 43:24, 51:18 <b>GRASSO</b> [69] - 1:18, 2:9, 4:16, 7:23, 8:2, 8:21, 8:24, 9:2, 9:8, 9:15, 9:23, 10:7, 10:10, 10:16, 10:19, 10:22, 11:2, 11:4, 11:15, 12:1, 12:8, 12:12, 12:15, 12:17, 12:20, 12:23, 13:2, 13:6, 13:12, 13:18, 13:21, 14:8, 14:10, 14:19, 15:7, 15:15, 15:19, 15:21, 15:23, 16:3, 16:7, 16:9, 18:11, 18:18, 18:25, 19:3, 19:8, 19:10, 19:14, 22:20, 22:22, 23:7, 23:9, 23:15, 25:5, 34:22, 39:1, 39:5, 39:9, 44:2, 44:5, 51:4, 52:3, 52:9, 52:16, 52:25, 54:17, 54:20, 55:8 <b>Griener</b> [3] - 1:22, 55:15, 55:15 <b>grocery</b> [2] - 45:4, 45:23 <b>grounds</b> [1] - 37:19 <b>grouped</b> [1] - 14:24 <b>grouping</b> [3] - 14:24, 15:1, 15:9 <b>guideline</b> [22] - 37:13, 38:2, 38:4, 38:11, 38:13, 38:21, 39:19, 40:15, 41:4, 41:25, 42:2, 42:6, 42:16, 42:19, 43:2, 43:5, 43:10, 43:11, 43:12, 54:11, 55:1, 55:4 <b>Guidelines</b> [1] - 36:20 <b>guidelines</b> [5] - 36:21, 37:10, 37:16, 41:14, 41:19 <b>guilty</b> [43] - 21:10, 23:7, 23:12, 23:19, 25:1, 25:12, 25:17, 25:20, 26:3, 26:18, 27:8, 27:24, 28:2, 29:11, 29:20, 30:13, 33:17, 33:23, 34:4, 35:9, 35:17, 36:5, 36:18, 37:20, 40:4, 41:10, 42:22, 43:5, 43:25, 44:8, 49:7, 49:17, 49:19, 49:20, 49:21, 49:22, 49:23,</p>
<p><b>E</b></p> <p><b>e-mail</b> [1] - 20:12 <b>East</b> [1] - 44:21 <b>Eighth</b> [1] - 46:18 <b>either</b> [6] - 25:2, 37:3, 48:10, 53:16, 53:17, 54:7 <b>elements</b> [10] - 27:22, 28:4, 28:19, 29:12, 29:22, 30:8, 30:10, 30:14, 36:17, 50:14 <b>end</b> [2] - 38:3, 38:11</p>	<p><b>F</b></p> <p><b>face</b> [3] - 18:11, 21:13, 46:11 <b>faces</b> [1] - 45:12 <b>facilitate</b> [1] - 48:13 <b>facilities</b> [1] - 47:24 <b>fact</b> [9] - 19:9, 24:24, 26:3, 26:6, 37:22, 47:25, 49:23, 50:1, 50:13 <b>factors</b> [1] - 37:22 <b>facts</b> [8] - 36:17, 43:24, 44:4, 44:6, 44:8, 44:15, 44:18, 49:15 <b>faggot</b> [1] - 2:21</p>	<p><b>G</b></p> <p><b>Gabriel</b> [1] - 2:9 <b>GABRIEL</b> [1] - 1:18 <b>gallery</b> [1] - 47:9 <b>given</b> [3] - 18:4, 21:23, 21:24 <b>gloves</b> [3] - 45:12, 45:22, 46:11 <b>Gordon</b> [1] - 16:20 <b>government</b> [24] - 15:11, 16:1, 16:10, 25:23, 26:1, 26:6, 28:5, 29:23, 30:13, 34:25, 39:9, 40:10, 40:17, 40:25, 41:7, 41:9, 43:16, 44:12, 49:16, 52:21, 53:4, 53:6, 53:19, 53:23 <b>government's</b> [1] - 15:2 <b>grabbed</b> [1] - 45:6 <b>grade</b> [1] - 23:24 <b>graduate</b> [1] - 24:2 <b>graduated</b> [1] - 23:23</p>		

49:24, 50:1, 50:5, 50:8, 50:12, 50:19 <b>gum</b> [2] - 45:6, 45:23	<b>I</b>	45:24 <b>instead</b> [2] - 23:19, 25:16 <b>instituted</b> [1] - 30:7 <b>instructions</b> [1] - 14:2 <b>intend</b> [1] - 23:5 <b>intended</b> [1] - 48:12 <b>intending</b> [1] - 28:13 <b>intent</b> [2] - 29:16, 30:1 <b>interfere</b> [4] - 28:3, 28:10, 30:22, 35:20 <b>interference</b> [3] - 29:11, 30:23, 36:1 <b>interpret</b> [1] - 14:15 <b>interstate</b> [1] - 48:6 <b>interview</b> [2] - 42:3, 51:12 <b>interviewed</b> [1] - 45:25 <b>investigation</b> [3] - 37:18, 44:23, 51:10 <b>involved</b> [2] - 4:15, 48:6 <b>involvement</b> [1] - 46:22 <b>issue</b> [5] - 7:4, 12:22, 14:16, 53:14 <b>issues</b> [3] - 3:8, 41:14, 53:21 <b>items</b> [1] - 45:19	25:16, 27:23, 33:18, 35:19, 36:7	50:23 <b>looked</b> [1] - 13:7 <b>looking</b> [1] - 6:15 <b>loss</b> [1] - 38:7 <b>low</b> [2] - 38:3, 38:11 <b>lower</b> [3] - 42:18, 43:4, 55:4
<b>H</b>	<b>identification</b> [1] - 47:21 <b>identified</b> [4] - 44:24, 45:1, 45:16, 46:12 <b>iii</b> [2] - 28:17, 35:25 <b>illness</b> [2] - 24:11, 24:15 <b>imagine</b> [1] - 51:14 <b>important</b> [3] - 51:15, 52:4, 53:18 <b>impose</b> [3] - 32:9, 36:23, 43:9 <b>imposed</b> [5] - 30:18, 31:11, 31:18, 32:3, 33:4 <b>imprisonment</b> [6] - 30:24, 31:5, 31:14, 31:21, 32:25, 36:24 <b>incident</b> [1] - 45:13 <b>included</b> [1] - 36:25 <b>includes</b> [4] - 36:16, 37:21, 38:15, 38:22 <b>including</b> [3] - 5:7, 16:11, 43:19 <b>incorrectly</b> [1] - 16:22 <b>increase</b> [1] - 17:2 <b>increased</b> [1] - 17:5 <b>incriminating</b> [1] - 46:21 <b>independent</b> [1] - 50:13 <b>indicated</b> [2] - 52:7, 52:10 <b>indications</b> [1] - 4:17 <b>indicted</b> [1] - 48:2 <b>indictment</b> [14] - 26:24, 27:25, 28:11, 28:15, 28:21, 28:24, 29:18, 35:18, 36:6, 36:12, 47:1, 48:5, 48:8, 53:10 <b>indictments</b> [2] - 27:11, 27:13 <b>indirectly</b> [2] - 28:22, 48:11 <b>induce</b> [2] - 30:3, 30:5 <b>induced</b> [1] - 29:13 <b>ineffective</b> [1] - 38:19 <b>influence</b> [1] - 30:2 <b>information</b> [5] - 37:17, 37:19, 51:13, 51:19 <b>informed</b> [1] - 50:11 <b>inmate</b> [1] - 47:21 <b>inmates</b> [1] - 47:24 <b>innocence</b> [2] - 25:25, 26:1 <b>inside</b> [2] - 14:21,	<b>J</b>	<b>K</b>	<b>M</b>
<b>half</b> [1] - 11:20 <b>hand</b> [12] - 8:11, 8:13, 9:19, 9:25, 10:6, 13:14, 13:16, 20:14, 20:23, 21:2, 22:13 <b>handed</b> [3] - 3:16, 3:19, 21:20 <b>handgun</b> [3] - 44:25, 46:9, 48:14 <b>hard</b> [1] - 11:5 <b>harm</b> [2] - 53:7, 53:12 <b>head</b> [1] - 16:17 <b>hearing</b> [8] - 16:20, 25:9, 42:6, 46:18, 46:19, 46:24, 47:10, 47:17 <b>hearings</b> [1] - 5:7 <b>held</b> [2] - 39:4, 46:20 <b>help</b> [1] - 24:22 <b>high</b> [1] - 24:16 <b>higher</b> [6] - 33:6, 40:21, 42:18, 43:4, 43:9, 55:4 <b>history</b> [2] - 37:8, 37:9 <b>hold</b> [3] - 4:22, 5:8, 42:5 <b>hone</b> [1] - 41:15 <b>Honor</b> [46] - 2:6, 2:9, 2:25, 3:6, 3:18, 4:16, 4:21, 5:24, 6:6, 7:3, 9:8, 12:8, 13:1, 14:12, 16:18, 17:15, 17:24, 18:9, 19:4, 19:14, 19:24, 20:12, 20:22, 20:24, 21:6, 21:14, 22:1, 22:20, 22:22, 23:7, 23:15, 25:4, 25:5, 31:9, 34:22, 35:15, 39:1, 39:6, 44:2, 44:5, 49:6, 51:4, 51:22, 52:3, 52:25, 55:8 <b>HONORABLE</b> [1] - 1:2 <b>hoping</b> [1] - 39:9 <b>hot</b> [1] - 10:6 <b>hour</b> [1] - 11:20 <b>hours</b> [2] - 20:5, 24:6 <b>housed</b> [1] - 47:24 <b>hum</b> [1] - 11:11 <b>hunky</b> [1] - 11:12 <b>hunky-dory</b> [1] - 11:12	<b>JA</b> [2] - 10:12, 10:17 <b>jail</b> [1] - 10:23 <b>Jamerson</b> [19] - 28:9, 44:24, 45:6, 45:9, 45:16, 45:25, 46:1, 46:3, 46:15, 46:20, 46:24, 46:25, 47:3, 47:6, 47:12, 47:15, 47:21, 47:22, 48:1 <b>Jamerson's</b> [2] - 47:5, 47:18 <b>January</b> [5] - 5:25, 6:12, 35:19, 36:7, 46:17 <b>JONES</b> [1] - 1:2 <b>Joshua</b> [8] - 2:5, 28:8, 45:1, 45:16, 46:17, 47:16, 47:21, 50:10 <b>JOSHUA</b> [1] - 1:7 <b>JR</b> [1] - 1:14 <b>judge</b> [1] - 32:16 <b>Judge</b> [5] - 7:23, 11:5, 13:19, 16:19, 18:12 <b>JUDGE</b> [1] - 1:2 <b>Judicial</b> [1] - 46:18 <b>jurors</b> [1] - 25:19 <b>jury</b> [7] - 6:15, 21:7,	<b>L</b>	<b>keep</b> [1] - 16:15 <b>kind</b> [3] - 24:7, 24:12, 33:19 <b>knowing</b> [2] - 28:13, 50:12 <b>knowingly</b> [3] - 29:24, 35:16, 36:4 <b>known</b> [2] - 28:9, 30:6 <b>knows</b> [1] - 20:7	<b>Madam</b> [2] - 5:19, 21:11 <b>mail</b> [2] - 8:1, 20:12 <b>mailed</b> [2] - 7:23, 18:14 <b>main</b> [1] - 23:17 <b>male</b> [2] - 45:1, 46:7 <b>mandatorily</b> [1] - 31:7 <b>mandatory</b> [4] - 31:13, 36:22, 43:2, 43:3 <b>manner</b> [1] - 48:12 <b>March</b> [1] - 51:23 <b>Margaret</b> [2] - 1:22, 55:15 <b>marshals</b> [2] - 47:11, 47:14 <b>mask</b> [2] - 45:22, 46:12 <b>masks</b> [1] - 45:13 <b>math</b> [1] - 16:22 <b>matter</b> [2] - 6:15, 55:14 <b>matters</b> [1] - 5:7 <b>max</b> [1] - 42:8 <b>maximum</b> [7] - 30:17, 30:21, 31:2, 31:19, 36:23, 43:3, 50:3 <b>maximums</b> [2] - 31:18, 31:22 <b>mean</b> [4] - 15:3, 18:13, 23:24, 53:2 <b>means</b> [2] - 26:14, 50:6 <b>meant</b> [1] - 3:6 <b>medication</b> [1] - 24:20 <b>medicine</b> [1] - 24:7 <b>meetings</b> [1] - 5:7 <b>member</b> [2] - 28:12, 47:13 <b>mental</b> [2] - 24:11, 24:15 <b>mentioned</b> [1] - 12:9 <b>met</b> [1] - 47:18 <b>might</b> [1] - 51:14 <b>mind</b> [1] - 13:3 <b>minimum</b> [3] - 31:14, 31:24, 43:3 <b>minus</b> [4] - 53:16, 54:12 <b>minute</b> [4] - 4:22,



<p>5:15, 5:17, 5:22  <b>minutes</b> [4] - 20:15,  21:4, 21:15, 21:21  <b>Miranda</b> [1] - 46:1  <b>mis</b> [1] - 15:2  <b>modus</b> [1] - 46:13  <b>moment</b> [1] - 27:2  <b>moments</b> [1] - 21:1  <b>money</b> [3] - 45:4,  45:23, 46:10  <b>months</b> [2] - 38:5,  54:13  <b>morning</b> [4] - 2:4, 2:6,  2:9, 16:18  <b>most</b> [1] - 42:15  <b>mouth</b> [1] - 16:15  <b>move</b> [3] - 36:13,  42:13, 52:14  <b>MR</b> [69] - 2:6, 2:9,  4:16, 7:23, 8:2, 8:21,  8:24, 9:2, 9:8, 9:15,  9:23, 10:7, 10:10,  10:16, 10:19, 10:22,  11:2, 11:4, 11:15,  12:1, 12:8, 12:12,  12:15, 12:17, 12:20,  12:23, 13:2, 13:6,  13:12, 13:18, 13:21,  14:8, 14:10, 14:19,  15:7, 15:15, 15:19,  15:21, 15:23, 16:3,  16:7, 16:9, 18:11,  18:18, 18:25, 19:3,  19:8, 19:10, 19:14,  22:20, 22:22, 23:7,  23:9, 23:15, 25:5,  34:22, 39:1, 39:5,  39:9, 44:2, 44:5,  51:4, 52:3, 52:9,  52:16, 52:25, 54:17,  54:20, 55:8  <b>MS</b> [15] - 5:1, 16:18,  17:3, 17:6, 17:8,  17:10, 17:14, 17:18,  17:24, 20:12, 20:24,  21:6, 25:4, 31:9,  35:15  <b>must</b> [7] - 4:20, 8:4,  22:16, 31:14, 32:15,  36:19, 37:24</p>	<p><b>necessarily</b> [1] - 31:18  <b>necessitated</b> [1] -  5:20  <b>negotiations</b> [3] -  2:15, 34:20, 34:24  <b>NEVADA</b> [2] - 1:1, 2:1  <b>Nevada</b> [8] - 1:7, 1:15,  1:19, 1:23, 44:22,  46:9, 46:19  <b>never</b> [4] - 6:23, 21:11,  49:1, 49:2  <b>next</b> [1] - 6:10  <b>nobody</b> [1] - 34:3  <b>none</b> [1] - 3:11  <b>nonwaivable</b> [1] -  38:19  <b>notes</b> [1] - 48:2  <b>nothing</b> [2] - 54:18,  54:20  <b>notified</b> [2] - 21:8,  47:11  <b>number</b> [13] - 16:24,  23:13, 30:21, 34:12,  35:18, 36:6, 36:12,  38:6, 47:22, 48:5,  48:15, 50:2, 51:23  <b>numerous</b> [2] - 9:24,  46:25</p>	<p>40:22, 50:14, 53:1,  53:2, 53:9, 53:11,  53:14, 53:16, 53:21,  53:25  <b>offenses</b> [4] - 26:23,  33:13, 33:14, 36:17  <b>offer</b> [2] - 4:14, 20:21  <b>offered</b> [2] - 4:7, 7:5  <b>offers</b> [1] - 34:20  <b>office</b> [3] - 13:25,  14:1, 45:8  <b>Office</b> [1] - 37:16  <b>officer</b> [5] - 19:1,  19:11, 51:11, 51:14,  51:19  <b>officers</b> [4] - 45:14,  45:19, 45:22, 48:2  <b>Official</b> [2] - 1:22,  55:16  <b>official</b> [2] - 30:3, 30:4  <b>often</b> [1] - 46:13  <b>old</b> [1] - 23:20  <b>once</b> [3] - 8:2, 24:17,  42:16  <b>one</b> [27] - 3:19, 3:25,  6:7, 14:25, 15:10,  15:16, 16:24, 17:3,  17:6, 18:15, 18:16,  18:18, 23:9, 29:16,  40:11, 41:4, 46:5,  48:6, 50:12, 52:20,  53:12, 53:21, 53:22,  53:23, 55:1  <b>ones</b> [1] - 31:18  <b>open</b> [1] - 45:3  <b>operandi</b> [1] - 46:13  <b>opportunity</b> [1] -  25:11  <b>oppose</b> [1] - 40:25  <b>oral</b> [5] - 10:4, 10:5,  12:19, 12:20, 34:20  <b>orally</b> [2] - 9:6, 9:21  <b>order</b> [7] - 8:18, 20:20,  22:11, 27:7, 33:10,  51:10, 52:1  <b>ordered</b> [2] - 7:17,  11:16  <b>original</b> [8] - 20:10,  21:3, 22:1, 22:2,  27:13, 33:1, 33:3,  33:6  <b>originally</b> [1] - 21:5  <b>otherwise</b> [1] - 20:18  <b>own</b> [1] - 25:7</p>	<p><b>packs</b> [1] - 45:23  <b>Pahrump</b> [2] - 11:5,  11:7  <b>paid</b> [1] - 37:24  <b>pardon</b> [2] - 40:6,  42:24  <b>parole</b> [1] - 37:23  <b>part</b> [10] - 16:22,  29:13, 32:10, 34:1,  37:7, 48:12, 51:6,  53:18, 53:19, 53:20  <b>participant</b> [2] - 29:4,  29:6  <b>particular</b> [1] - 26:23  <b>parties</b> [3] - 14:16,  36:25, 54:23  <b>penalty</b> [3] - 30:21,  31:2, 31:19  <b>pending</b> [2] - 30:7,  46:25  <b>per</b> [2] - 6:9, 37:24  <b>perpetrator</b> [1] - 46:13  <b>personally</b> [2] - 5:11,  29:1  <b>pertains</b> [1] - 44:20  <b>PHILLIP</b> [1] - 1:14  <b>Phillip</b> [1] - 2:6  <b>phone</b> [6] - 8:6, 12:10,  13:13, 13:22, 47:11,  47:14  <b>photographs</b> [1] -  47:10  <b>physical</b> [3] - 29:25,  47:8  <b>pills</b> [1] - 24:7  <b>place</b> [1] - 41:17  <b>plaintiff</b> [1] - 1:5  <b>PLAINTIFF</b> [1] - 1:14  <b>plastic</b> [2] - 45:4,  45:23  <b>PLEA</b> [1] - 1:11  <b>plea</b> [62] - 2:12, 2:13,  2:14, 5:5, 5:12, 5:21,  7:2, 7:5, 11:23,  13:10, 21:10, 21:24,  22:12, 23:12, 23:17,  23:19, 25:12, 25:17,  26:18, 27:8, 33:16,  33:25, 34:6, 34:20,  36:11, 36:16, 36:18,  37:12, 37:20, 37:21,  38:5, 38:11, 38:15,  38:22, 39:25, 41:10,  42:22, 43:5, 43:23,  43:25, 44:8, 49:4,  49:9, 50:4, 50:5,  50:8, 50:11, 50:12,  50:14, 50:19, 50:24,  52:18, 52:22, 53:1,  53:18, 53:20, 54:1,</p>	<p>54:16, 54:18, 54:20  <b>plead</b> [12] - 23:5, 25:3,  25:8, 33:23, 34:4,  35:9, 35:16, 36:5,  40:3, 49:6, 49:7,  49:19  <b>pleading</b> [5] - 17:11,  25:1, 30:12, 49:17,  49:22  <b>pleas</b> [1] - 34:24  <b>plus</b> [10] - 15:4, 53:11,  54:2, 54:4, 54:7,  54:9, 54:10  <b>podium</b> [1] - 22:10  <b>point</b> [4] - 5:6, 6:11,  15:16, 17:6  <b>pointed</b> [1] - 46:9  <b>possess</b> [1] - 33:19  <b>possibility</b> [1] - 50:3  <b>possible</b> [4] - 30:21,  31:2, 31:19, 52:5  <b>post</b> [1] - 45:25  <b>postmarked</b> [1] -  47:20  <b>postscript</b> [1] - 47:25  <b>presence</b> [1] - 26:7  <b>present</b> [6] - 2:10,  24:20, 26:10, 43:18,  46:23, 51:18  <b>presented</b> [1] - 51:17  <b>presentence</b> [7] -  42:5, 43:19, 50:7,  50:17, 50:23, 51:10,  52:13  <b>pressing</b> [2] - 7:4  <b>pressure</b> [1] - 34:3  <b>presumption</b> [1] -  25:25  <b>prevent</b> [1] - 30:2  <b>primarily</b> [2] - 8:12  <b>print</b> [2] - 20:13, 20:25  <b>prison</b> [11] - 8:10,  8:23, 9:5, 10:24,  18:6, 19:25, 20:2,  20:8, 24:18, 32:9,  32:17  <b>probation</b> [8] - 15:25,  40:14, 40:16, 40:20,  42:1, 42:12, 51:11,  53:23  <b>Probation</b> [3] - 17:20,  37:15, 54:24  <b>problem</b> [6] - 3:2, 3:5,  3:9, 3:10, 17:19,  17:24  <b>proceeding</b> [3] -  23:19, 30:3, 30:4  <b>proceedings</b> [2] -  47:5, 55:13  <b>proceeds</b> [1] - 48:10</p>
<p><b>N</b></p>	<p><b>O</b></p>	<p><b>P</b></p>		
<p><b>name</b> [1] - 3:4  <b>namely</b> [1] - 44:4  <b>Naples</b> [1] - 44:21  <b>narcotic</b> [1] - 24:11  <b>nature</b> [1] - 39:21  <b>nearby</b> [1] - 47:3  <b>nearest</b> [1] - 5:19</p>	<p><b>o'clock</b> [1] - 19:15  <b>oath</b> [7] - 13:8, 22:12,  22:16, 27:3, 44:18,  49:12, 49:15  <b>object</b> [2] - 28:13,  51:19  <b>objection</b> [1] - 52:1  <b>obligated</b> [2] - 21:9,  41:14  <b>obligation</b> [2] - 35:8,  35:11  <b>observations</b> [1] -  25:7  <b>observed</b> [1] - 47:5  <b>obtain</b> [1] - 29:16  <b>obtained</b> [1] - 48:10  <b>obtains</b> [1] - 37:17  <b>obviously</b> [2] - 15:20,  52:5  <b>occasions</b> [1] - 34:12  <b>occupants</b> [1] - 45:15  <b>occur</b> [1] - 9:18  <b>occurred</b> [3] - 13:2,  13:12, 44:21  <b>OF</b> [4] - 1:1, 1:4, 1:11  <b>offense</b> [20] - 15:4,  28:4, 28:19, 29:12,  29:22, 33:11, 37:1,  37:2, 39:10, 40:21,</p>	<p><b>p.m</b> [3] - 10:15, 16:8,  51:23  <b>packet</b> [1] - 43:23</p>		

<p><b>process</b> [1] - 41:17</p> <p><b>prohibited</b> [1] - 11:23</p> <p><b>promise</b> [2] - 35:8, 40:2</p> <p><b>proof</b> [1] - 25:24</p> <p><b>proper</b> [2] - 53:24, 54:25</p> <p><b>property</b> [4] - 29:14, 29:16, 36:10, 48:9</p> <p><b>prosecute</b> [1] - 43:17</p> <p><b>prove</b> [6] - 19:23, 25:25, 28:5, 29:23, 30:14, 49:16</p> <p><b>provided</b> [1] - 47:15</p> <p><b>providing</b> [1] - 46:20</p> <p><b>punishments</b> [1] - 50:4</p> <p><b>purpose</b> [3] - 2:12, 23:18, 50:25</p> <p><b>purposes</b> [1] - 25:9</p> <p><b>pursuant</b> [2] - 38:12, 45:21</p> <p><b>put</b> [3] - 13:8, 14:1, 45:4</p>	<p><b>receive</b> [3] - 19:20, 33:2, 37:3</p> <p><b>received</b> [4] - 18:5, 18:8, 18:10, 18:12</p> <p><b>recently</b> [1] - 4:8</p> <p><b>recess</b> [1] - 21:22</p> <p><b>recite</b> [5] - 39:10, 39:11, 52:17, 52:24, 53:19</p> <p><b>recited</b> [1] - 54:16</p> <p><b>reciting</b> [1] - 54:17</p> <p><b>recommendation</b> [2] - 38:9, 54:25</p> <p><b>recommendations</b> [1] - 42:4</p> <p><b>recommended</b> [1] - 41:9</p> <p><b>recommending</b> [1] - 41:8</p> <p><b>record</b> [8] - 16:14, 21:7, 21:20, 23:1, 37:7, 39:4, 52:18, 55:13</p> <p><b>recover</b> [1] - 45:19</p> <p><b>recovered</b> [2] - 45:22, 47:19</p> <p><b>reduction</b> [4] - 37:2, 37:4, 37:5, 53:16</p> <p><b>Reform</b> [1] - 41:13</p> <p><b>refusal</b> [1] - 5:20</p> <p><b>regard</b> [2] - 31:25, 46:16</p> <p><b>regarding</b> [4] - 37:2, 37:21, 48:22, 53:24</p> <p><b>registers</b> [3] - 45:3, 45:4, 45:7</p> <p><b>regular</b> [1] - 11:6</p> <p><b>relate</b> [1] - 35:13</p> <p><b>related</b> [1] - 39:12</p> <p><b>relation</b> [3] - 28:23, 29:5, 31:3</p> <p><b>release</b> [6] - 32:10, 32:15, 32:21, 33:1, 33:5, 37:23</p> <p><b>relevant</b> [3] - 37:12, 43:15, 43:17</p> <p><b>reliance</b> [1] - 37:19</p> <p><b>rely</b> [2] - 37:16, 37:18</p> <p><b>remain</b> [4] - 26:14, 26:15, 27:2, 27:7</p> <p><b>remaining</b> [3] - 36:14, 52:5, 52:6</p> <p><b>remember</b> [1] - 9:13</p> <p><b>remind</b> [2] - 21:11, 51:24</p> <p><b>removal</b> [1] - 38:22</p> <p><b>removed</b> [1] - 47:13</p> <p><b>renegotiate</b> [1] - 4:6</p> <p><b>Reno</b> [1] - 1:23</p> <p><b>report</b> [10] - 42:5,</p>	<p>43:19, 50:7, 50:18, 50:19, 50:23, 51:11, 51:12, 51:14, 52:13</p> <p><b>reported</b> [1] - 47:7</p> <p><b>Reported</b> [1] - 1:22</p> <p><b>Reporter</b> [2] - 1:22, 55:16</p> <p><b>represent</b> [2] - 25:10, 25:13</p> <p><b>representation</b> [3] - 7:13, 10:4, 10:6</p> <p><b>representations</b> [1] - 25:7</p> <p><b>represented</b> [2] - 5:4, 21:9</p> <p><b>represents</b> [1] - 25:10</p> <p><b>request</b> [1] - 38:10</p> <p><b>required</b> [1] - 27:21</p> <p><b>respect</b> [3] - 2:20, 2:24, 49:4</p> <p><b>respects</b> [1] - 44:12</p> <p><b>responsibility</b> [3] - 37:3, 37:4, 38:8</p> <p><b>restitution</b> [1] - 33:10</p> <p><b>result</b> [4] - 16:22, 38:7, 47:1, 47:12</p> <p><b>returned</b> [2] - 35:18, 36:6</p> <p><b>revealed</b> [1] - 44:23</p> <p><b>review</b> [1] - 51:16</p> <p><b>reviewed</b> [1] - 43:25</p> <p><b>revised</b> [4] - 8:3, 17:23, 20:25, 21:2</p> <p><b>revision</b> [1] - 21:3</p> <p><b>revoked</b> [3] - 32:19, 32:25, 33:5</p> <p><b>rights</b> [5] - 26:19, 33:18, 36:17, 38:19, 43:11</p> <p><b>risk</b> [1] - 53:7</p> <p><b>robberies</b> [8] - 46:2, 46:3, 46:4, 46:7, 46:11, 46:15, 46:22, 48:7</p> <p><b>robbery</b> [11] - 28:3, 28:10, 29:7, 29:11, 30:22, 30:23, 35:21, 36:1, 44:20, 46:5, 46:6</p> <p><b>ROBERT</b> [1] - 1:2</p> <p><b>room</b> [1] - 11:20</p> <p><b>rules</b> [2] - 13:5, 50:18</p> <p><b>run</b> [2] - 20:25, 31:14</p>	<p>5:6, 52:12</p> <p><b>school</b> [1] - 23:22</p> <p><b>search</b> [2] - 45:21, 45:22</p> <p><b>searched</b> [1] - 45:20</p> <p><b>seated</b> [2] - 4:13, 47:3</p> <p><b>second</b> [8] - 6:2, 6:8, 14:4, 18:13, 28:12, 28:21, 29:15, 30:1</p> <p><b>section</b> [14] - 14:23, 15:1, 15:8, 17:3, 28:1, 28:2, 28:16, 29:20, 35:21, 36:2, 36:9, 37:22, 38:13, 44:8</p> <p><b>Section</b> [1] - 29:1</p> <p><b>sections</b> [3] - 28:17, 29:10, 35:25</p> <p><b>sedan</b> [1] - 45:10</p> <p><b>see</b> [14] - 3:13, 4:19, 4:25, 6:21, 10:20, 10:23, 11:4, 11:8, 11:11, 11:18, 11:19, 18:20, 21:23</p> <p><b>seek</b> [2] - 38:1, 38:12</p> <p><b>semiautomatic</b> [2] - 46:9, 48:14</p> <p><b>send</b> [2] - 10:2, 32:16</p> <p><b>sent</b> [7] - 8:2, 12:22, 17:9, 18:19, 20:11, 47:16, 47:19</p> <p><b>sentence</b> [22] - 31:8, 31:10, 31:15, 31:25, 32:10, 33:1, 36:21, 36:23, 37:7, 38:1, 38:3, 38:10, 38:20, 40:12, 41:5, 41:8, 42:18, 43:9, 43:11, 51:15, 55:4</p> <p><b>sentenced</b> [4] - 24:17, 32:8, 32:20, 42:11</p> <p><b>sentences</b> [2] - 30:18, 43:4</p> <p><b>Sentencing</b> [2] - 36:20, 41:13</p> <p><b>sentencing</b> [22] - 32:3, 32:6, 36:15, 37:9, 37:25, 38:2, 38:4, 39:16, 39:18, 41:13, 41:17, 41:18, 42:5, 43:19, 50:8, 50:24, 51:21, 51:22, 52:8, 52:9, 52:13, 53:24</p> <p><b>serial</b> [1] - 48:15</p> <p><b>serve</b> [1] - 33:18</p> <p><b>set</b> [9] - 6:12, 6:15, 35:17, 36:5, 36:11, 40:12, 42:17, 51:22, 55:4</p> <p><b>sets</b> [1] - 41:5</p>	<p><b>settled</b> [1] - 13:23</p> <p><b>seven</b> [1] - 31:14</p> <p><b>several</b> [1] - 44:12</p> <p><b>short</b> [2] - 45:14, 54:6</p> <p><b>show</b> [1] - 2:19</p> <p><b>sign</b> [18] - 3:16, 3:23, 6:22, 6:24, 7:2, 7:14, 7:20, 12:24, 12:25, 18:9, 20:16, 20:20, 21:5, 21:20, 22:3, 50:16, 51:3, 51:8</p> <p><b>signature</b> [4] - 8:10, 8:25, 18:5, 34:17</p> <p><b>signed</b> [9] - 13:11, 17:19, 21:12, 22:3, 22:5, 34:15, 49:10, 51:4, 51:5</p> <p><b>signing</b> [1] - 3:9</p> <p><b>silent</b> [4] - 26:14, 26:15, 27:2, 27:7</p> <p><b>SILVA</b> [15] - 1:14, 16:18, 17:3, 17:6, 17:8, 17:10, 17:14, 17:18, 17:24, 20:12, 20:24, 21:6, 25:4, 31:9, 35:15</p> <p><b>Silva</b> [5] - 2:7, 4:17, 8:2, 35:6, 35:13</p> <p><b>silver</b> [4] - 44:25, 45:17, 46:9, 48:15</p> <p><b>simple</b> [1] - 11:24</p> <p><b>simply</b> [2] - 26:15, 54:16</p> <p><b>situation</b> [1] - 49:2</p> <p><b>slide</b> [1] - 48:15</p> <p><b>Smith</b> [1] - 2:7</p> <p><b>SMITH</b> [3] - 1:14, 2:6, 5:1</p> <p><b>smoothly</b> [1] - 52:5</p> <p><b>sometime</b> [1] - 8:4</p> <p><b>somewhat</b> [2] - 15:1, 15:9</p> <p><b>somewhere</b> [1] - 19:23</p> <p><b>sorry</b> [1] - 49:7</p> <p><b>South</b> [1] - 1:23</p> <p><b>speaking</b> [3] - 2:24, 9:16, 48:1</p> <p><b>special</b> [2] - 32:2, 37:24</p> <p><b>specific</b> [1] - 2:17</p> <p><b>specifically</b> [2] - 39:17, 48:1</p> <p><b>specified</b> [1] - 32:15</p> <p><b>spent</b> [3] - 11:20, 32:21, 32:25</p> <p><b>stack</b> [2] - 6:2, 6:8</p> <p><b>stand</b> [1] - 26:7</p> <p><b>start</b> [2] - 13:9, 41:17</p> <p><b>State</b> [1] - 46:18</p>	
<p><b>Q</b></p>	<p><b>quarters</b> [1] - 11:7</p> <p><b>questions</b> [5] - 13:9, 22:12, 23:17, 41:22, 51:20</p> <p><b>quiet</b> [2] - 11:3, 11:14</p>				
<p><b>R</b></p>	<p><b>raise</b> [3] - 8:11, 8:13, 22:13</p> <p><b>ran</b> [2] - 45:2, 46:8</p> <p><b>range</b> [7] - 16:2, 37:14, 38:2, 38:4, 38:11, 38:21</p> <p><b>rather</b> [1] - 19:20</p> <p><b>RDR</b> [2] - 1:22, 55:15</p> <p><b>read</b> [10] - 23:2, 27:10, 34:6, 43:25, 44:7, 44:17, 49:8, 50:7, 51:16, 54:6</p> <p><b>reading</b> [1] - 22:21</p> <p><b>ready</b> [3] - 13:10, 21:19, 44:14</p> <p><b>realized</b> [2] - 15:14, 15:15</p> <p><b>really</b> [1] - 52:18</p> <p><b>reason</b> [5] - 44:3, 49:23, 50:16, 50:21, 51:2</p> <p><b>reasonable</b> [3] - 26:2, 28:6, 36:23</p> <p><b>reasonably</b> [1] - 29:7</p> <p><b>receipt</b> [1] - 34:23</p>	<p><b>receive</b> [3] - 19:20, 33:2, 37:3</p> <p><b>received</b> [4] - 18:5, 18:8, 18:10, 18:12</p> <p><b>recently</b> [1] - 4:8</p> <p><b>recess</b> [1] - 21:22</p> <p><b>recite</b> [5] - 39:10, 39:11, 52:17, 52:24, 53:19</p> <p><b>recited</b> [1] - 54:16</p> <p><b>reciting</b> [1] - 54:17</p> <p><b>recommendation</b> [2] - 38:9, 54:25</p> <p><b>recommendations</b> [1] - 42:4</p> <p><b>recommended</b> [1] - 41:9</p> <p><b>recommending</b> [1] - 41:8</p> <p><b>record</b> [8] - 16:14, 21:7, 21:20, 23:1, 37:7, 39:4, 52:18, 55:13</p> <p><b>recover</b> [1] - 45:19</p> <p><b>recovered</b> [2] - 45:22, 47:19</p> <p><b>reduction</b> [4] - 37:2, 37:4, 37:5, 53:16</p> <p><b>Reform</b> [1] - 41:13</p> <p><b>refusal</b> [1] - 5:20</p> <p><b>regard</b> [2] - 31:25, 46:16</p> <p><b>regarding</b> [4] - 37:2, 37:21, 48:22, 53:24</p> <p><b>registers</b> [3] - 45:3, 45:4, 45:7</p> <p><b>regular</b> [1] - 11:6</p> <p><b>relate</b> [1] - 35:13</p> <p><b>related</b> [1] - 39:12</p> <p><b>relation</b> [3] - 28:23, 29:5, 31:3</p> <p><b>release</b> [6] - 32:10, 32:15, 32:21, 33:1, 33:5, 37:23</p> <p><b>relevant</b> [3] - 37:12, 43:15, 43:17</p> <p><b>reliance</b> [1] - 37:19</p> <p><b>rely</b> [2] - 37:16, 37:18</p> <p><b>remain</b> [4] - 26:14, 26:15, 27:2, 27:7</p> <p><b>remaining</b> [3] - 36:14, 52:5, 52:6</p> <p><b>remember</b> [1] - 9:13</p> <p><b>remind</b> [2] - 21:11, 51:24</p> <p><b>removal</b> [1] - 38:22</p> <p><b>removed</b> [1] - 47:13</p> <p><b>renegotiate</b> [1] - 4:6</p> <p><b>Reno</b> [1] - 1:23</p> <p><b>report</b> [10] - 42:5,</p>	<p>43:19, 50:7, 50:18, 50:19, 50:23, 51:11, 51:12, 51:14, 52:13</p> <p><b>reported</b> [1] - 47:7</p> <p><b>Reported</b> [1] - 1:22</p> <p><b>Reporter</b> [2] - 1:22, 55:16</p> <p><b>represent</b> [2] - 25:10, 25:13</p> <p><b>representation</b> [3] - 7:13, 10:4, 10:6</p> <p><b>representations</b> [1] - 25:7</p> <p><b>represented</b> [2] - 5:4, 21:9</p> <p><b>represents</b> [1] - 25:10</p> <p><b>request</b> [1] - 38:10</p> <p><b>required</b> [1] - 27:21</p> <p><b>respect</b> [3] - 2:20, 2:24, 49:4</p> <p><b>respects</b> [1] - 44:12</p> <p><b>responsibility</b> [3] - 37:3, 37:4, 38:8</p> <p><b>restitution</b> [1] - 33:10</p> <p><b>result</b> [4] - 16:22, 38:7, 47:1, 47:12</p> <p><b>returned</b> [2] - 35:18, 36:6</p> <p><b>revealed</b> [1] - 44:23</p> <p><b>review</b> [1] - 51:16</p> <p><b>reviewed</b> [1] - 43:25</p> <p><b>revised</b> [4] - 8:3, 17:23, 20:25, 21:2</p> <p><b>revision</b> [1] - 21:3</p> <p><b>revoked</b> [3] - 32:19, 32:25, 33:5</p> <p><b>rights</b> [5] - 26:19, 33:18, 36:17, 38:19, 43:11</p> <p><b>risk</b> [1] - 53:7</p> <p><b>robberies</b> [8] - 46:2, 46:3, 46:4, 46:7, 46:11, 46:15, 46:22, 48:7</p> <p><b>robbery</b> [11] - 28:3, 28:10, 29:7, 29:11, 30:22, 30:23, 35:21, 36:1, 44:20, 46:5, 46:6</p> <p><b>ROBERT</b> [1] - 1:2</p> <p><b>room</b> [1] - 11:20</p> <p><b>rules</b> [2] - 13:5, 50:18</p> <p><b>run</b> [2] - 20:25, 31:14</p>	<p>5:6, 52:12</p> <p><b>school</b> [1] - 23:22</p> <p><b>search</b> [2] - 45:21, 45:22</p> <p><b>searched</b> [1] - 45:20</p> <p><b>seated</b> [2] - 4:13, 47:3</p> <p><b>second</b> [8] - 6:2, 6:8, 14:4, 18:13, 28:12, 28:21, 29:15, 30:1</p> <p><b>section</b> [14] - 14:23, 15:1, 15:8, 17:3, 28:1, 28:2, 28:16, 29:20, 35:21, 36:2, 36:9, 37:22, 38:13, 44:8</p> <p><b>Section</b> [1] - 29:1</p> <p><b>sections</b> [3] - 28:17, 29:10, 35:25</p> <p><b>sedan</b> [1] - 45:10</p> <p><b>see</b> [14] - 3:13, 4:19, 4:25, 6:21, 10:20, 10:23, 11:4, 11:8, 11:11, 11:18, 11:19, 18:20, 21:23</p> <p><b>seek</b> [2] - 38:1, 38:12</p> <p><b>semiautomatic</b> [2] - 46:9, 48:14</p> <p><b>send</b> [2] - 10:2, 32:16</p> <p><b>sent</b> [7] - 8:2, 12:22, 17:9, 18:19, 20:11, 47:16, 47:19</p> <p><b>sentence</b> [22] - 31:8, 31:10, 31:15, 31:25, 32:10, 33:1, 36:21, 36:23, 37:7, 38:1, 38:3, 38:10, 38:20, 40:12, 41:5, 41:8, 42:18, 43:9, 43:11, 51:15, 55:4</p> <p><b>sentenced</b> [4] - 24:17, 32:8, 32:20, 42:11</p> <p><b>sentences</b> [2] - 30:18, 43:4</p> <p><b>Sentencing</b> [2] - 36:20, 41:13</p> <p><b>sentencing</b> [22] - 32:3, 32:6, 36:15, 37:9, 37:25, 38:2, 38:4, 39:16, 39:18, 41:13, 41:17, 41:18, 42:5, 43:19, 50:8, 50:24, 51:21, 51:22, 52:8, 52:9, 52:13, 53:24</p> <p><b>serial</b> [1] - 48:15</p> <p><b>serve</b> [1] - 33:18</p> <p><b>set</b> [9] - 6:12, 6:15, 35:17, 36:5, 36:11, 40:12, 42:17, 51:22, 55:4</p> <p><b>sets</b> [1] - 41:5</p>	<p><b>settled</b> [1] - 13:23</p> <p><b>seven</b> [1] - 31:14</p> <p><b>several</b> [1] - 44:12</p> <p><b>short</b> [2] - 45:14, 54:6</p> <p><b>show</b> [1] - 2:19</p> <p><b>sign</b> [18] - 3:16, 3:23, 6:22, 6:24, 7:2, 7:14, 7:20, 12:24, 12:25, 18:9, 20:16, 20:20, 21:5, 21:20, 22:3, 50:16, 51:3, 51:8</p> <p><b>signature</b> [4] - 8:10, 8:25, 18:5, 34:17</p> <p><b>signed</b> [9] - 13:11, 17:19, 21:12, 22:3, 22:5, 34:15, 49:10, 51:4, 51:5</p> <p><b>signing</b> [1] - 3:9</p> <p><b>silent</b> [4] - 26:14, 26:15, 27:2, 27:7</p> <p><b>SILVA</b> [15] - 1:14, 16:18, 17:3, 17:6, 17:8, 17:10, 17:14, 17:18, 17:24, 20:12, 20:24, 21:6, 25:4, 31:9, 35:15</p> <p><b>Silva</b> [5] - 2:7, 4:17, 8:2, 35:6, 35:13</p> <p><b>silver</b> [4] - 44:25, 45:17, 46:9, 48:15</p> <p><b>simple</b> [1] - 11:24</p> <p><b>simply</b> [2] - 26:15, 54:16</p> <p><b>situation</b> [1] - 49:2</p> <p><b>slide</b> [1] - 48:15</p> <p><b>Smith</b> [1] - 2:7</p> <p><b>SMITH</b> [3] - 1:14, 2:6, 5:1</p> <p><b>smoothly</b> [1] - 52:5</p> <p><b>sometime</b> [1] - 8:4</p> <p><b>somewhat</b> [2] - 15:1, 15:9</p> <p><b>somewhere</b> [1] - 19:23</p> <p><b>sorry</b> [1] - 49:7</p> <p><b>South</b> [1] - 1:23</p> <p><b>speaking</b> [3] - 2:24, 9:16, 48:1</p> <p><b>special</b> [2] - 32:2, 37:24</p> <p><b>specific</b> [1] - 2:17</p> <p><b>specifically</b> [2] - 39:17, 48:1</p> <p><b>specified</b> [1] - 32:15</p> <p><b>spent</b> [3] - 11:20, 32:21, 32:25</p> <p><b>stack</b> [2] - 6:2, 6:8</p> <p><b>stand</b> [1] - 26:7</p> <p><b>start</b> [2] - 13:9, 41:17</p> <p><b>State</b> [1] - 46:18</p>
	<p><b>S</b></p>	<p><b>satisfied</b> [1] - 25:12</p> <p><b>scarves</b> [1] - 45:12</p> <p><b>schedule</b> [1] - 5:19</p> <p><b>scheduled</b> [3] - 4:25,</p>			

<p><b>state</b> [4] - 29:17, 45:21, 46:24, 48:6</p> <p><b>statement</b> [2] - 48:17, 49:9</p> <p><b>statements</b> [2] - 46:15, 46:21</p> <p><b>STATES</b> [2] - 1:1, 1:4</p> <p><b>States</b> [12] - 1:15, 2:5, 2:8, 35:21, 35:24, 36:2, 36:9, 36:13, 36:20, 38:1, 38:13, 50:10</p> <p><b>status</b> [2] - 32:22, 52:2</p> <p><b>statute</b> [1] - 36:24</p> <p><b>step</b> [1] - 53:23</p> <p><b>still</b> [7] - 2:13, 18:9, 40:11, 41:9, 42:21, 43:5, 43:17</p> <p><b>stop</b> [1] - 2:24</p> <p><b>store</b> [4] - 44:25, 45:2, 45:5, 45:9</p> <p><b>stores</b> [2] - 46:8, 48:5</p> <p><b>Street</b> [1] - 1:23</p> <p><b>stuff</b> [2] - 48:24, 54:4</p> <p><b>stupid</b> [1] - 3:1</p> <p><b>subject</b> [2] - 31:13, 52:24</p> <p><b>substance</b> [3] - 17:10, 35:6, 35:14</p> <p><b>substantial</b> [1] - 53:7</p> <p><b>sufficient</b> [1] - 25:11</p> <p><b>suggesting</b> [2] - 18:1, 18:3</p> <p><b>summary</b> [4] - 38:25, 39:12, 39:24, 43:24</p> <p><b>summons</b> [1] - 21:8</p> <p><b>summonsed</b> [1] - 21:8</p> <p><b>sun</b> [1] - 20:5</p> <p><b>supervised</b> [6] - 32:10, 32:14, 32:20, 32:25, 33:5, 37:23</p> <p><b>support</b> [3] - 36:18, 43:24, 44:8</p> <p><b>supported</b> [1] - 50:12</p> <p><b>supposed</b> [3] - 2:18, 2:21, 7:20</p> <p><b>surveillance</b> [1] - 45:13</p> <p><b>suspect</b> [4] - 44:23, 45:1, 46:8, 46:10</p> <p><b>suspects</b> [1] - 45:12</p> <p><b>sworn</b> [2] - 22:13, 22:14</p> <p><b>SYJ44555</b> [1] - 48:15</p> <p><b>system</b> [1] - 32:6</p>	<p>8:16, 20:19, 20:21</p> <p><b>tampering</b> [4] - 29:20, 31:20, 36:8, 53:11</p> <p><b>taped</b> [1] - 46:1</p> <p><b>Taurus</b> [1] - 48:14</p> <p><b>telephone</b> [1] - 12:7</p> <p><b>term</b> [9] - 30:24, 31:5, 31:21, 32:10, 32:20, 32:24, 33:3, 33:6, 36:23</p> <p><b>testify</b> [2] - 26:7, 26:14</p> <p><b>testimony</b> [2] - 30:2, 30:4</p> <p><b>Thanksgiving</b> [16] - 8:5, 8:7, 8:19, 8:20, 9:10, 9:12, 10:13, 10:14, 10:23, 10:25, 12:18, 14:11, 15:10, 15:12, 17:1, 18:6</p> <p><b>THE</b> [371] - 1:2, 1:14, 1:18, 2:4, 2:11, 2:14, 2:20, 2:21, 2:23, 2:25, 3:4, 3:5, 3:15, 3:17, 3:19, 3:22, 3:23, 3:25, 4:2, 4:3, 4:4, 4:5, 4:9, 4:10, 4:12, 4:19, 4:21, 4:22, 4:23, 4:24, 5:2, 5:3, 5:14, 5:15, 5:16, 5:17, 5:24, 6:1, 6:3, 6:4, 6:6, 6:7, 6:14, 6:17, 6:18, 6:19, 6:21, 7:6, 7:7, 7:9, 7:11, 7:12, 7:14, 7:15, 7:16, 7:17, 7:19, 7:21, 7:25, 8:1, 8:9, 8:14, 8:15, 8:22, 8:25, 9:3, 9:14, 9:21, 10:5, 10:8, 10:15, 10:17, 10:21, 11:1, 11:3, 11:13, 11:14, 11:22, 12:2, 12:4, 12:5, 12:11, 12:13, 12:16, 12:19, 12:21, 12:24, 12:25, 13:4, 13:7, 13:14, 13:15, 13:16, 13:19, 13:20, 14:6, 14:9, 14:14, 14:18, 15:5, 15:14, 15:17, 15:20, 15:22, 15:24, 16:5, 16:8, 16:10, 16:13, 16:14, 17:2, 17:5, 17:7, 17:9, 17:12, 17:16, 17:22, 17:25, 18:8, 18:14, 18:16, 18:17, 18:24, 19:1, 19:6, 19:9, 19:11, 19:15, 19:18, 19:21, 19:24, 20:1, 20:3, 20:4,</p>	<p>20:6, 20:9, 20:14, 20:17, 20:18, 20:22, 20:23, 21:2, 21:7, 21:14, 21:15, 21:17, 21:19, 21:23, 22:1, 22:2, 22:5, 22:6, 22:8, 22:9, 22:15, 22:17, 22:18, 22:21, 22:23, 22:25, 23:1, 23:4, 23:5, 23:8, 23:12, 23:16, 23:21, 23:22, 23:23, 23:25, 24:1, 24:2, 24:3, 24:4, 24:5, 24:6, 24:9, 24:10, 24:13, 24:14, 24:16, 24:19, 24:21, 24:22, 24:23, 24:24, 25:1, 25:2, 25:6, 25:14, 25:15, 25:18, 25:19, 25:22, 25:23, 26:4, 26:5, 26:9, 26:10, 26:12, 26:13, 26:17, 26:18, 26:21, 26:22, 26:25, 27:1, 27:5, 27:6, 27:9, 27:10, 27:12, 27:14, 27:15, 27:16, 27:18, 27:19, 27:20, 27:21, 30:11, 30:12, 30:16, 30:17, 30:19, 30:20, 31:1, 31:2, 31:6, 31:7, 31:10, 31:12, 31:13, 31:16, 31:17, 31:23, 31:24, 32:4, 32:5, 32:13, 32:14, 32:18, 32:19, 32:23, 32:24, 33:8, 33:9, 33:12, 33:13, 33:15, 33:16, 33:21, 33:22, 33:24, 33:25, 34:2, 34:3, 34:5, 34:6, 34:8, 34:9, 34:11, 34:12, 34:14, 34:15, 34:16, 34:17, 34:18, 34:19, 34:23, 35:1, 35:2, 35:4, 35:5, 35:12, 35:13, 38:24, 39:2, 39:7, 39:11, 39:14, 39:15, 39:16, 39:18, 39:20, 39:22, 39:23, 39:24, 40:1, 40:2, 40:5, 40:6, 40:7, 40:9, 40:13, 40:14, 40:19, 40:20, 40:24, 40:25, 41:2, 41:3, 41:6, 41:7, 41:11, 41:12, 41:20, 41:21, 41:23, 41:24, 42:8, 42:9, 42:10, 42:12, 42:15, 42:16, 42:20, 42:21,</p>	<p>42:23, 42:24, 42:25, 43:1, 43:7, 43:8, 43:13, 43:14, 43:22, 43:23, 44:3, 44:7, 44:10, 44:11, 44:13, 44:14, 44:16, 44:17, 48:18, 48:19, 48:20, 48:22, 48:23, 48:25, 49:1, 49:3, 49:6, 49:8, 49:11, 49:12, 49:13, 49:14, 49:18, 49:19, 49:21, 49:22, 49:24, 49:25, 51:1, 51:2, 51:6, 51:7, 51:8, 51:22, 51:24, 52:8, 52:12, 52:19, 54:15, 54:18, 54:22, 55:6, 55:7, 55:9</p> <p><b>therefore</b> [5] - 48:6, 50:14, 53:12, 53:13, 54:6</p> <p><b>thereof</b> [1] - 54:9</p> <p><b>third</b> [2] - 29:16, 30:6</p> <p><b>threat</b> [1] - 29:25</p> <p><b>threaten</b> [1] - 48:25</p> <p><b>threatened</b> [3] - 29:14, 33:22, 47:7</p> <p><b>threatening</b> [2] - 47:16, 53:12</p> <p><b>threatens</b> [1] - 47:23</p> <p><b>threats</b> [2] - 47:22, 48:22</p> <p><b>three</b> [9] - 11:7, 23:9, 29:12, 29:22, 29:23, 37:4, 53:17, 53:21, 54:12</p> <p><b>three-level</b> [1] - 37:4</p> <p><b>three-quarters</b> [1] - 11:7</p> <p><b>threw</b> [1] - 18:11</p> <p><b>thrown</b> [1] - 45:18</p> <p><b>Title</b> [10] - 28:1, 28:16, 29:9, 29:19, 35:21, 35:24, 36:2, 36:9, 37:22, 38:13</p> <p><b>today</b> [9] - 4:23, 6:22, 7:20, 21:8, 24:25, 25:13, 26:18, 27:6, 35:2</p> <p><b>together</b> [1] - 15:12</p> <p><b>tomorrow</b> [2] - 5:2, 5:3</p> <p><b>took</b> [5] - 7:12, 24:1, 24:4, 24:5, 45:7</p> <p><b>top</b> [1] - 54:13</p> <p><b>total</b> [1] - 33:1</p> <p><b>towed</b> [1] - 45:20</p> <p><b>town</b> [3] - 8:7, 8:20, 19:5</p> <p><b>trailed</b> [1] - 6:12</p>	<p><b>TRANSCRIPT</b> [1] - 1:11</p> <p><b>transcript</b> [1] - 55:13</p> <p><b>treated</b> [1] - 24:10</p> <p><b>treatment</b> [2] - 24:14, 24:22</p> <p><b>trial</b> [28] - 3:10, 4:25, 5:7, 5:8, 5:13, 5:18, 5:19, 5:23, 5:24, 6:2, 6:15, 7:1, 7:4, 8:15, 8:17, 14:1, 20:18, 21:12, 23:19, 25:16, 25:19, 25:23, 26:16, 27:23, 28:6, 30:14, 36:16, 50:3</p> <p><b>tried</b> [1] - 4:20</p> <p><b>true</b> [12] - 14:19, 44:4, 44:6, 44:15, 44:18, 48:17, 48:19, 49:7, 49:10, 49:11, 49:13</p> <p><b>truth</b> [1] - 49:23</p> <p><b>truthfully</b> [1] - 22:16</p> <p><b>trying</b> [3] - 6:24, 14:14, 15:13</p> <p><b>Tuesday</b> [12] - 9:11, 9:12, 12:17, 13:13, 13:22, 13:23, 14:11, 18:6, 19:13, 19:14, 19:15</p> <p><b>turning</b> [1] - 19:19</p> <p><b>twenty</b> [1] - 23:21</p> <p><b>twenty-four</b> [1] - 23:21</p> <p><b>twice</b> [2] - 11:15, 11:17</p> <p><b>two</b> [18] - 2:16, 3:20, 4:10, 7:7, 14:24, 20:5, 24:4, 27:10, 37:3, 45:3, 46:4, 53:7, 53:16, 54:4, 54:7, 54:9, 54:10, 54:12</p> <p><b>two-level</b> [1] - 53:7</p> <p><b>twofold</b> [1] - 28:4</p> <p><b>typos</b> [1] - 8:3</p>
<b>T</b>				<b>U</b>
<b>table</b> [5] - 4:15, 4:18,				<p><b>U.S</b> [4] - 28:1, 37:15, 37:22, 41:13</p> <p><b>ultimately</b> [2] - 17:15, 17:18</p> <p><b>unanimously</b> [1] - 25:20</p> <p><b>uncharged</b> [1] - 37:13</p> <p><b>under</b> [19] - 13:4, 13:8, 22:12, 22:16, 25:15, 27:3, 30:21, 31:2, 31:19, 37:9, 37:11, 37:22, 41:13, 44:18, 49:12, 49:15, 50:18,</p>

53:13, 54:1 <b>UNITED</b> [2] - 1:1, 1:4 <b>United</b> [12] - 1:15, 2:4, 2:7, 35:21, 35:24, 36:2, 36:9, 36:13, 36:20, 38:1, 38:13, 50:10 <b>unknown</b> [2] - 28:7, 28:10 <b>unless</b> [8] - 21:12, 21:16, 21:19, 37:4, 38:6, 50:19, 50:22, 52:1 <b>up</b> [8] - 15:11, 22:10, 27:6, 31:21, 36:23, 42:14, 43:1, 52:15 <b>upset</b> [1] - 47:6 <b>upstairs</b> [1] - 20:25 <b>urge</b> [1] - 51:13 <b>US</b> [3] - 28:16, 29:9, 29:19	<b>W</b>	<b>yourself</b> [2] - 12:6, 23:20
<b>V</b>	<b>waited</b> [1] - 47:4 <b>waiting</b> [1] - 21:17 <b>waive</b> [2] - 22:21, 26:19 <b>waiver</b> [1] - 36:16 <b>waivers</b> [1] - 38:17 <b>waiving</b> [3] - 27:1, 38:18, 43:10 <b>wallet</b> [2] - 45:8, 45:17 <b>warrant</b> [2] - 45:21, 45:22 <b>Wednesday</b> [7] - 8:19, 9:1, 9:2, 9:4, 18:6, 19:13 <b>WEDNESDAY</b> [1] - 2:1 <b>week</b> [20] - 3:20, 4:25, 5:7, 5:8, 6:13, 6:14, 8:4, 8:5, 9:10, 9:12, 10:13, 10:14, 10:24, 11:1, 11:2, 11:8, 12:18, 14:11, 15:10, 17:1 <b>weeks</b> [4] - 2:16, 3:20, 4:10, 7:7 <b>white</b> [2] - 45:4, 45:22 <b>whole</b> [3] - 9:16, 32:20, 54:3 <b>willing</b> [7] - 3:23, 5:5, 20:10, 20:19, 22:3, 22:6, 27:6 <b>wipe</b> [1] - 11:6 <b>withdraw</b> [1] - 37:20 <b>withhold</b> [1] - 30:4 <b>witness</b> [4] - 29:21, 30:5, 31:20, 36:8 <b>witnesses</b> [2] - 26:5, 26:10 <b>words</b> [4] - 16:16, 25:24, 33:3, 50:22 <b>wore</b> [2] - 45:12, 46:11 <b>write</b> [1] - 23:2 <b>writing</b> [4] - 9:6, 16:11, 50:20, 50:22 <b>written</b> [4] - 34:20, 43:24, 49:9, 49:10 <b>wrongful</b> [1] - 29:14 <b>wrote</b> [1] - 49:1	
<b>valid</b> [1] - 22:11 <b>valuable</b> [1] - 33:18 <b>Vegas</b> [6] - 1:7, 1:15, 1:19, 44:22, 46:8, 46:19 <b>VEGAS</b> [1] - 2:1 <b>vehicle</b> [3] - 45:18, 45:20, 45:24 <b>verbal</b> [1] - 19:19 <b>versus</b> [2] - 2:5, 50:10 <b>victim</b> [9] - 30:1, 30:2, 30:3, 30:5, 33:10, 45:3, 45:7, 45:11, 45:17 <b>victims</b> [2] - 29:13, 46:10 <b>video</b> [1] - 45:13 <b>violate</b> [1] - 32:16 <b>violation</b> [9] - 28:1, 28:16, 28:25, 29:19, 35:21, 35:24, 36:2, 36:8, 48:14 <b>violations</b> [2] - 29:9, 48:11 <b>violence</b> [9] - 28:18, 28:21, 28:23, 29:2, 29:4, 29:15, 31:4, 35:24, 47:8 <b>Virginia</b> [1] - 1:23 <b>visibly</b> [1] - 47:6 <b>voluntarily</b> [2] - 35:16, 36:4 <b>voluntary</b> [4] - 33:25, 50:4, 50:12, 51:6 <b>vote</b> [1] - 33:20 <b>vs</b> [1] - 1:6	<b>Y</b>	
	<b>year</b> [3] - 24:4, 24:5, 32:8 <b>years</b> [4] - 30:24, 31:14, 31:22, 32:11 <b>yesterday</b> [8] - 4:17, 7:19, 10:21, 11:11, 11:18, 16:4, 18:12, 18:19	